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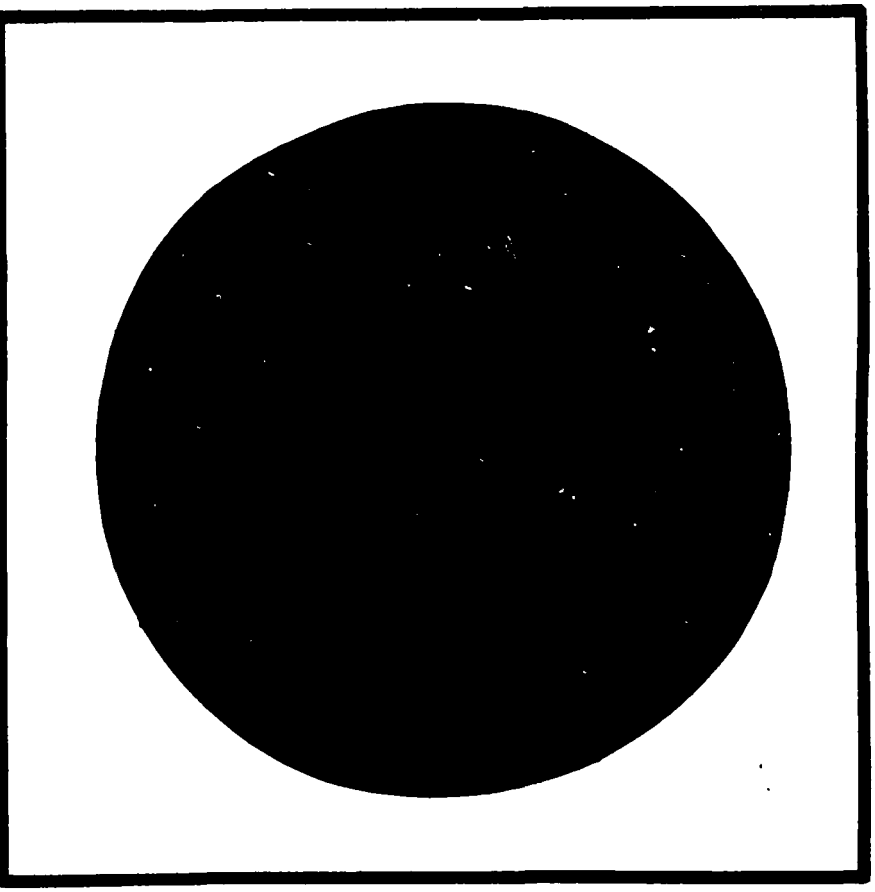

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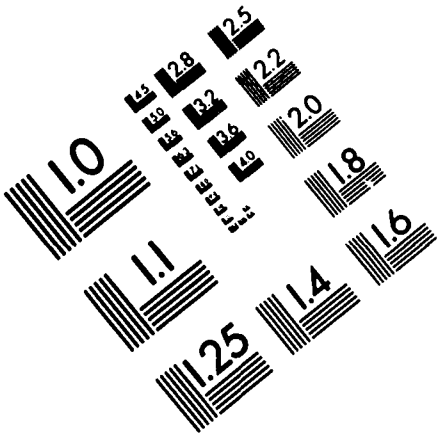

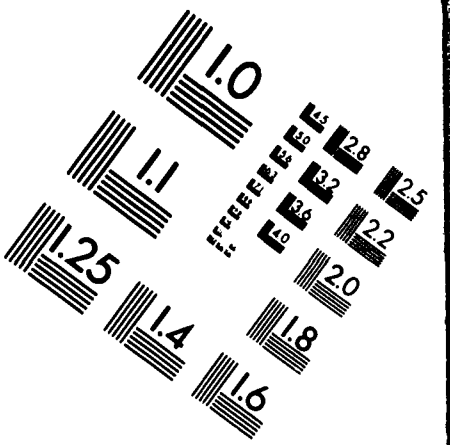

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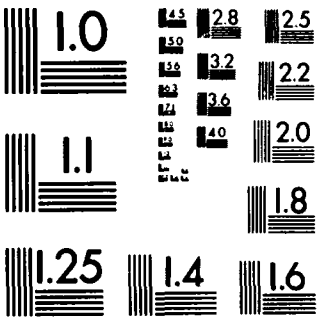

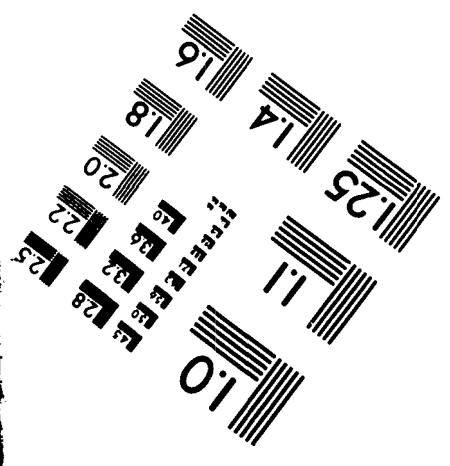

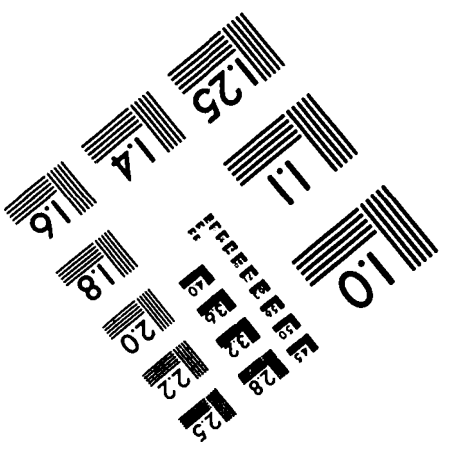

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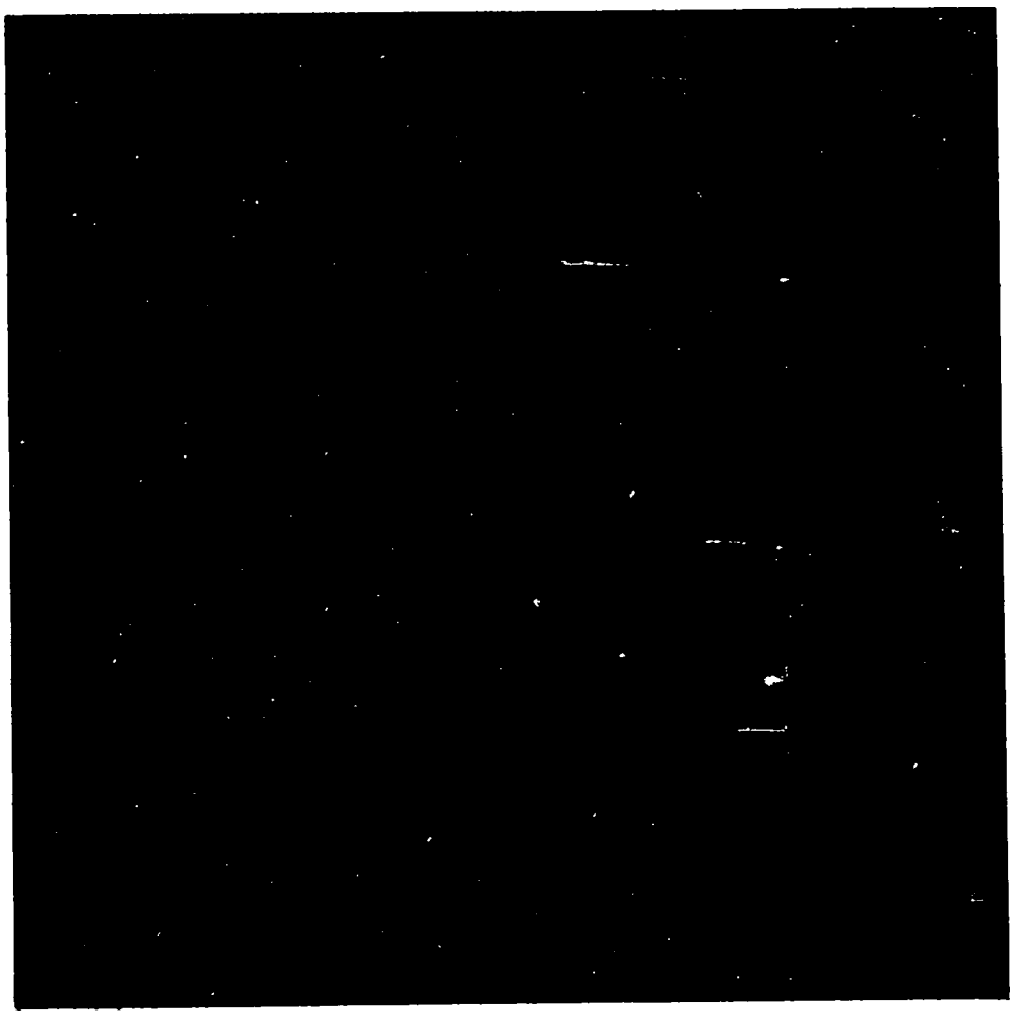

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Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

PAGES 3193 - 3265 incl. Final Duplicate Copy

Case No. FLOSSENBURG

Prosecutor

*~~Summary~~
*~~Intermediate~~ Military Court.
*General

Defence Counsel

Place Dachau, Germany

Interpreter

Date 6 September 1946

Reporter

Members of Court:

WITNESSES:
STEFFLINGER, Karl
LARIV, Senon

Accused Friedrich Becker, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH ECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

6 SEPTEMBER 1946 0910 hours to 1650 hours
Pages 3193 - 3265 incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
STEFFLINGER, Karl (cont'd.)		3193	3197 3217 3219	3222	3199 3218 3226
LAURIV, Senen	3230	3226	3236 3264	3239 3262	3239 3263

9/6/46
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1.

Camp Dachau, Germany.
September 6, 1946.

MORNING SESSION

(whereupon at 0910 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all personnel of the court and all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Maj. Seding and Mr. Hall who are absent on business of the accused; all the accused are present with the exception of Oswalt, Pons and Lipinski, who are confined to the hospital and whose interests are being taken care of by their counsel, and Dr. Schmitz who is in conference with counsel. The witness is reminded he is still under oath.

KARL STEFFLINGER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Cross-examination. Prosecution.

CROSS EXAMINATION.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Steffinger, you worked in the payroll section of the Messerschmitt factory, is that correct?

A In the prisoners' payroll section.

Q How often was that payroll made up?

A Monthly. Monthly payroll.

Q Did you make up the payroll?

A In the first periods I did that. Later on the former prisoner Kuefner came and he took over.

How many times did you see Schubert falsify that payroll?

MR. M'KAY: That's objected to as argumentative. It assumes a fact that has not been testified to by this witness.

MR. BERKOWITZ: If it please the court, no argument.

(Steffinger-cross)

PRESIDENT: Objection sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Did Schubert falsify this payroll?

A No.

Q Never?

A I don't understand this question but I can give an explanation about the payroll so that the court may be informed, as well as the prosecution, how that was done.

Q Will you just answer my question. Did you never see Schubert or know of Schubert falsifying that payroll?

A No.

Q How often did you get presents from Schubert?

A I received every month a cigarette ration which I distributed in the section. Everyone received this ration, only mostly it was distributed by the obercapo of the stone quarry.

Q What other presents did you get from Schubert?

A I didn't receive presents of any kind.

Q Are you certain of that?

A Yes.

Q You testified about the better element of prisoners. I would like a little explanation of that and I will ask you whether you would consider a prisoner who gambled with other prisoners and then when he lost reported the prisoners with whom he played so that they were punished, would you consider such a prisoner as a better element?

MR. M'KAY: That's objected to as repetition.

MR. BERKOWITZ: I don't think such a question has been asked.

MR. M'KAY: The material has been covered.

PRESIDENT: It is not clear in the mind of the court just about whom this question is directed.

MR. BERKOWITZ: I will withdraw the question.

PRESIDENT: It is perfectly true that this matter has been covered previously.

MR. PERKOWITZ: If it please the court....

PRESIDENT: Go ahead. It is not clear in the mind of the court just whom the matter is directed to. Are you withdrawing the question?

MR. PERKOWITZ: I am withdrawing the question for the moment.

QUESTIONS BY MR. PERKOWITZ:

Q Did you consider yourself one of the better elements of prisoners?

A I would like you to ask other witnesses about that.

Q That will be done. I want you to answer my question.

A I would like to ask the court that I should not judge myself here.

Q You have----

PRESIDENT: (int'g) - Just a minute, Mr. Perkowitz. The court feels that his original answer was perfectly approper and the court agrees with the request of the witness.

QUESTIONS BY MR. PERKOWITZ:

Q Well, would you consider a prisoner who changed classifications of pay in favor of those who shared their packages with him one of the better element of prisoners?

MR. M'KAY: That's objected to as not proper cross-examination. There is no foundation in this man's testimony for such a question.

MR. PERKOWITZ: If it please the court, the man testified yesterday about the better element of prisoners. He defined the better element as those who could distinguish between right and wrong and I want to see how far that definition goes.

MR. M'KAY: There is nothing shown here that any records were changed in any way.

MR. BERKOWITZ: If it please the court, before this trial is over there will be such evidence. We are not confined to the evidence produced. We are concerned here with the definitions used by the witness and I want a clarification of these definitions.

PRESIDENT: Mr. Berkowitz, it is necessary for you to stick to the cross-examination of matters covered by the direct examination. Your question is more or less of a highly hypothetical nature. The court can't understand to/whom you are referring.

MR. BERKOWITZ: As a matter of fact I am referring to the witness

PRESIDENT: All right. Frame your questions accordingly.

QUESTIONS BY MR. BERKOWITZ:

Q You had charge of the classifications of pay for prisoners, didn't you?

A Yes.

Q You shared packages with some of these prisoners who were so classified, didn't you?

MR. M'KAY: That is objected to for the reason it is not in proper form and does not show the nature of the association which the question is directed to.

MR. BERKOWITZ: If it please the court, I am going to the question of credibility of this witness and the value of his testimony. His manner of treatment of his fellow prisoners through abuse of his position and his association with the management of the quarry is competent matter for this court to inquire into.

MR. M'KAY: If the prosecution has any idea of impeaching this witness there is a proper method to do it.

MR. BERKOWITZ: One of the proper methods is to ask the witness himself.

PRESIDENT: Objection sustained.

MR. BERKOWITZ: No further questions.

PRESIDENT: I might suggest, Mr. Berkowitz, that matter has not been covered on the direct examination. The court will

5. be closed.

(whereupon at 0933 hours the court was closed)

(whereupon at 0933 hours the court was opened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Maj. Oeding and Mr. Hall who are absent on business of the accused; all the accused are present with the exception of Lipinski, Oswalt and Rens, who are in the hospital and whose interests are being taken care of by counsel, and Mr. Schmitz who is in conference with his counsel.

The witness is reminded he is still under oath.

KARL STEFFLINGER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Proceed, Mr. Berkowitz.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. MUNAY:

Q You stated in your statement, Mr. Steffinger, that in considering the better elements of prisoners you considered the length of time that they had spent in a concentration camp. Will you explain that?

MR. BERKOWITZ: If it please the court, the question is objected to. As I recollect the testimony he did not state that the basis of his consideration as to the whorthwhileness of a prisoner

was the length of his time in the camp. As I recall, it/he said something quite different. Furthermore the answer would be repetition and I object to it. Furthermore the question is leading and suggestive.

PRESIDENT: Read the question.

(whereupon the question was read by the reporter)

PRESIDENT: What is the basis of your objection again, Mr. Berkowitz?

MR. BERKOWITZ: In the first place it is based upon something that is not in the record. The witness did not say that the better element of prisoners were those in the camp a longer time.

PRESIDENT: The court does not agree with that statement, Mr. Berkowitz, but will give you an opportunity to check the record if you see fit.

MR. BERKOWITZ: Furthermore it is repetition. The witness has already testified to what he meant by the better element of prisoners. Thirdly, it is leading and suggestive, putting words in the witness' mouth.

PRESIDENT: Objection sustained, on the basis of the latter two statements.

QUESTIONS BY MR. M'KAY:

Q In your cross-examination you stated that prisoners were beaten very severely, that they were taken to the hospital. Can you give the court any idea as to who administered these beatings? Can you give the court any idea as to who administered these beatings where the prisoners were taken to the hospital?

A The beatings usually took place because of differences of opinion among the prisoners. There were also some capos there who beat the prisoners. When I reached the camp the general conditions were not as bad as they had been the year before I arrived..

MR. MERKOWITZ: If it please the court, I ask that that be stricken. The witness does not know what the conditions were there before he arrived. It's a conclusion on the part of the witness.

PRESIDENT: Motion sustained.

QUESTIONS BY MR. M'KAY:

Q Will you tell the court just what capos it was that administered those beatings where they had to be removed to the hospital?

A I only know this one case in particular in detail, the case of Nieheff; I don't know the other capos. As long as I was in the quarry the only other one I know who beat people there was Rochel.

Q Do you know what details they came from?

A They came from different commandos— details.

Q You stated that the campeldest Mathoi didnot perform executions as a part of his duties. What do you mean by that?

A It wasn't part of the duties of the campeldest to carry out executions, but as I said yesterday the adjutant of the camp commander in a caprice ordered Mathoi to carry out the execution and Mathoi refused to do it.

Q That's all.

PRESIDENT: Recross.

MR. MERKOWITZ: No further questions.

EXAMINATION BY THE COURT.

QUESTIONS BY THE PRESIDENT:

Q You have testified that on the 25th of March, 1938 you were sentenced by a People's Court in Berlin.

A Yes.

Q Was that sentence based upon charges by the Gestapo?

A Yes.

Q Just what was the nature of the charges put forward by the Gestapo?

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A Before 1936 I was abroad in North Africa in the French territory there. Each year I came back to Germany to Munich, my native land, and in 1935 I brought over some pamphlets for the French Government against the removal of the Saar Territory; they were propaganda pamphlets. During my last visit there in Munich I carried on conversations among my circle of acquaintances regarding how Germany was looked upon---how National Socialism was looked upon abroad. One of the people who were present denounced me to the Gestapo and I was arrested. In the course of the interrogation of the Gestapo the question came up why I, in the course of my sojourn abroad, had come into contact with people belonging to a foreign government. In 1935 a German law was published called 90-C, according to which German citizens had no right to come in contact with members of a foreign country and, although I had had a more serious charge against me before, I was brought before the People's Court in Berlin on this charge, this misdemeanor, based upon paragraph 90-C, according to which I had betrayed my fatherland, and I was sentenced to five years imprisonment and, as a result of this protective custody notice which I have here and can read to you, I was brought to the camp.

Q The court does not desire you to read the entire contents of that particular statement but if there is anything in there pertaining to a sentence or the basis of your arrest or confinement proceed.

A This protective custody order was signed by Kaltenbrunner and published by the Gestapo in Berlin. It reads like this: "The following Stefflinger will be taken into protective custody for the following reasons: According to information which the police have determined the person in question endangers the welfare of the State and the People because it is feared that after his finishing his five-year prison term he will again take up his activity in connection with a foreign news service or in some other way respectively endanger the welfare of the State and People".

Q Was that the sole basis of the charges against you at the time of your conviction by the People's Court in 1938?

A Yes.

Q Now at the time you were summoned before the People's Court in Berlin were you given the right or opportunity to call witnesses in your behalf?

A No.

Q Were you represented by counsel?

A Yes. The charge sheet of the prosecutor included more than five hundred pages but the proceedings were carried on with such prejudice that the entire proceedings, including the verdict, was reached within a half an hour. They threw up in my face that I was abroad at all and one of the members of the court, a state adviser called Kaiser, said if I were a German I would have come to Germany in 1933,when the government was taken over, and would have helped to build up the West Wall.

Q Can you tell the court whether or not there was any appeal from a decision of the People's Court?

A There wasn't any legal way to do that but you could only appeal and try to get the case tried again. I did that. In April, 1938, this matter was approved, that the trial be taken up again, but in October, 1938 it was cancelled again because the witnesses I wanted were located abroad and could not be brought to the trial and I decided to flee and try to get these witnesses. The first of January, 1939 I fled.

Q That's sufficient. You mentioned yesterday in answer to a question during the course of the direct examination by the defense counsel that most of the time they were treated right. Just who were you referring to at that particular time? Were you referring to German prisoners or all the inmates or just who were you referring to?

A Where do you mean "well treated"—in the camp?

Q In the camp, yes. The court wants to find out just who you were referring to when you made that statement. I will repeat it again: "Most of the time they were treated right".

A I can't remember saying that they were usually—that we were usually treated well.

Q You don't remember making a statement of that nature yesterday afternoon during the course of direct examination by Mr. McKay?

A That must have been in some connection with a direct question. I can't quite get the picture here.

Q You understand the term "gummi"?

A Yes.

Q What do you mean by that?

A A gummi is a piece of tubing which is used for beating.

Q Did you ever see a gummi used around the stone quarry?

A I saw people sometimes who carried a piece of rubber hosing and I imagine they sometimes used it for beating.

Q Did you see anybody carry a gummi in the stone quarry?

A Yes.

Q Who was that?

A Usually each capo had a gummi himself.

Q Just who, in particular, at the stone quarry did you see carrying a gummi?

A Roehel always ran around with a piece of rubber hose, a gummi.

Q Did you see anybody else at the stone quarry carry a gummi or have a gummi in their hands?

A It is possible that Jakubith also carried a gummi but I can't remember that exactly.

Q Are you sure about that?

A Yes.

Q You are not certain that you actually saw Jakubith with a gummi at the quarry?

A I couldn't swear to that with certainty.

Q Did you ever see Jakubith beat anybody?

A I saw him prod some people and probably also beat them.

Q What do you mean by "prod"?

A I already explained yesterday that Jakubith as capo had to see to it that the work was performed.

Q I want a direct answer to my question: What do you mean by "prod"? "Prod" has a variety of meanings and the court wants to know just what you mean by "prodding".

A When Jakubith saw that he himself was being observed and another prisoner was not working then he would go to the prisoner who was not working and prod him like this (indicating).

Q Did this matter of prodding include the use of the feet also?

A Yes.

Q Would it mean the use of a gummi?

A The gummi was very often used but whether Jakubith used it or not I can not say with certainty.

Q You have just testified that you saw Jakubith beat people on occasions. Explain to the court what you mean by that.

A I saw that very seldom myself, I can hardly remember it. Beatings took place in the quarry so often nobody thought anything of it.

Q Just a minute. The court is referring to any beatings that you saw Jakubith administer, nobody else, right at the present time....Jakubith.

A I can't remember ever actually seeing Jakubith beat anyone.

Q But you just testified a moment ago that you did see

Jakubith beat several people.

A Yes. I am convinced that in his capacity Jakubith had to give out some blows or he would not have been able to keep his position.

Q The court is not interested in your explanation as to why he had to do it. The court wants to know whether or not you saw Jakubith beat anybody.

A As long as I worked in the quarry I never looked around myself much because I was afraid I myself would be beaten.

Q The court insists you answer the question. Did you see Jakubith beat anybody?

A I can't give you an actual instance where I saw that.

Q How many times did you see that take place, that Jakubith beat somebody?

A I believe that was the case once or twice in the course of a day.

Q What were the extent of those beatings? That is, what happened to the individual who was beaten?

A He stumbled a little and then took up his work again.

Q You are satisfied that in those cases the individual who was beaten was able to resume his work at once?

A For the most part they were people who were rather rundown physically and if they got a prod like this they would stumble down and some of them would not be able to take up their work again, but the great part could.

Q Did you ever see any of these individuals beaten by Jakubith carried off?

A No.

PRESIDENT: The court will take a half an hour recess.

(whereupon at 1005 hours the court recessed)

(Steffling-er-court)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present; all the personnel of the defense are present, with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused; all the accused are present, with the exception of Oswalt, Pens and Schreiber, who are sick in the hospital, and whose interests are being taken care of by their counsel; that Dr. Schmitz is also absent, conferring with his counsel. If there are any spectators in the courtroom that expect to be called as witnesses in this case they will please leave the courtroom.

KARL STEFFLINGER, called as a witness by the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

EXAMINATION BY THE COURT (CONTINUED)

QUESTIONS BY PRESIDENT:

Q Can you tell the court anything further about these beatings administered by Jakubith, to which you have testified?

A I can't give you any more details about that because I don't remember seeing any particular incident. I probably saw some, but beatings took place so ordinarily that nobody paid any attention to it and you were entirely used to it.

Q Now, these beatings that took place so ordinarily that you just got used to it and didn't pay any attention to it, are you referring to the beatings administered by Jakubith or somebody else?

A All capos who were in the quarry. And yesterday I explained how those were connected up.

Q You had an opportunity to observe Hauser on a number of occasions, didn't you?

A Yes.

Q How often did you have an opportunity to observe Hauser and his details?

A I saw him two or three times a week for several minutes but I didn't see him among his prisoners. We always withdrew out of the hall because there was so much noise in the hall we couldn't hear ourselves speak.

Q Didn't you have an opportunity at various times to observe Hauser with his detail?

A Yes, when I was walking by, but I never saw Hauser beat anyone.

Q You never saw Hauser beat anyone on any occasion?

A No.

Q Did you ever see him prod anybody?

A No.

Q Did you ever see Hauser have a gummi?

A No.

Q Are you sure about that that you never saw Hauser beat anybody on any occasion?

A No.

Q You never saw him slap anybody with his hand or anything of that nature?

A No.

Q You are sure about that now?

A I am quite sure about it.

Q You have testified, as I recall, that you observed Ginschel distribute food at various times, is that correct?

A Yes.

Q Did you ever see Ginschel take any part or action against any inmates?

A I can remember two incidents clearly. One of these

incidents took place several meters in front of the barracks. Ginschel was attacked by a mob of 40 or 50 men and he defended himself by turning around and defending himself with the ladle.

Q How do you mean he defended himself with the ladle?

A He turned around on his heels in order to make room for himself.

Q Well, what did he do with that ladle?

A He held the ladle in front of him and turned himself around with the ladle.

Q Did he hit anybody with the ladle, that you saw?

A He turned himself around and when he was attacked he pushed the party with the ladle.

Q You say he pushed the party back with the ladle, but during the time that he was swinging around did he hit anybody with that ladle?

A Yes.

Q Where did he hit him? What part of the body?

A All parts of the body.

Q How many did he hit?

A I can't say exactly—five or six men.

Q What happened with those inmates that were hit with the ladle by Ginschel?

A They jumped right back at him again. The clerk's office observed the incident and several people came out of the clerk's office and chased the people away.

Q Well, after this incident, did you see anybody lying prostrate on the ground, who wasn't able to get away?

A No.

Q Never saw anything like that?

A No.

Q Well, can you explain to the court why these men were all rushing down there in the direction of Ginschel?

A The people were all hungry and they saw that in this moment— That often occurred, that the food wasn't being guarded very well, and they decided they could overcome this man and get the food. Usually Russians were involved in these affairs for the most part.

Q Then the court understands the basis for this action on the part of these inmates was due to the fact that they were very hungry, probably starving, is that correct?

A Yes.

Q Did you get enough to eat when you were in Flossenburg?

A No. But I would like to say something.

Q Go ahead.

A I was five years in penal confinement and the food I got there was worse than in the camp. I weighed 77 kilos at the outbreak of the war in 1939 and several years after that 80 to 85 kilos.

Q Where was your mess in Flossenburg, in which block?

A I don't know whether the canteen was Block 13 or 15,— Next to the laundry.

Q That's where you had your mess?

A No, we ate in the block.

Q What block were you in?

A I was in Blocks 5, 7 and 3—for the longest time in Block 5.

Q Now, what can you tell the court with respect to Mathoi? Did you ever see him administer any beatings?

A I often saw Mathoi in his capacity as camp eldest take measures against a rioting mob when they wanted to attack someone.

Q What kind of measures did he take?

A He stopped the rioting or the plundering. And I never heard that he notified the SS about it. He hushed up the matter among the prisoners themselves.

Q How did he stop this rioting? What action did he take to stop it?

A That all depended. Take, for example, if a vegetable, potato or bread wagon came in the camp and people started plundering he would run over there and pull the people away from it.

Q Is that all he did, just pull them away?

A Yes, depending upon the fact whether anyone defended himself he would hit him until he would leave.

Q How many times were you beaten yourself during the time you were in Flossenburg?

A Twenty, twenty-five times.

Q Does that mean that you were given a certain number of specified strokes at that time or does it simply mean you were beaten by certain individuals?

A Once I was beaten because of punishment for a misdemeanor and I received twenty-five blows with a stick. On the other occasions I was beaten because it was the caprice of a capo or an orderly or anyone else who had to do with the affair.

Q Were you ever beaten by any of the accused?

A No.

QUESTIONS BY COLONEL JACKSON:

Q You stated that you made up the payroll and that you received death notices, is that correct?

A Yes.

Q About how many death notices did you receive in a week?

A I didn't get them by the week. When I drew up the list once a month I would get them after I had looked around and made investigations for those who were absent when the pay was given out.

The standard strength of men was around 5,000 men and I believe on an average death reports of 100 to 130.

Q Was that death reports a week or a month?

A Monthly. But as luck would have it I was able to find out the number of deaths because I came upon a list that had been cremated in the years '42 and '43. And I could tell by looking at this list that out of an average strength of 4500 men in Flossenburg more than half of them ended up in the crematory. That is, those who would be missing would be filled out—the replacements would be filled up with new arrivals because there were very few people released from Flossenburg.

Q You mentioned that you saw different individuals hanging. Did you mean by that executions or do you mean they were hanging by the thumbs or hanging by the wrists?

A Yes, I attended executions. And they were public executions carried out in front of the whole assembled prisoner personnel of the camp.

Q Did you see anyone strung up by their wrists or by their thumbs?

A I never saw that myself. Those sort of things took place in the arrest building.

Q Did you ever hear of any of those things taking place?

A I heard about it, and the way these hangings were carried out was the following: Their hands were bound up on their backs, a cord was attached to the hands, and they were hung up like that.

Q What pay and what privileges did a camp eldest receive?

A The camp eldest had a right to go to the storeroom and take as much food as he wanted. And also the block eldest got a special ration direct from the warehouse in order to prevent them from enriching themselves with food which rightfully belonged to the prisoners.

Q And what pay did they get?

A I don't know that. That was a matter of the camp with which I had nothing to do.

Q What was Mathoi's reputation among the inmates at the end of 1944? By that I mean what did the inmates think of him? What was the general conversation that they told you about him?

A Mathoi didn't have a bad reputation in camp. And I often saw prisoners turn to him for help and I also saw him help them out. I didn't see it myself, but I found out from other prisoners that they had turned to him for help.

Q How do you know that the adjutant gave Mathoi an order to execute a prisoner?

A I heard it myself. I was standing a few meters in front of him and I heard it when it was said.

Q You have mentioned about legal beatings and illegal beatings. Were there more legal beatings or more illegal beatings?

A All the beatings, or most all of the beatings which I saw were illegal beatings because legal beatings which had been ordered were never carried out, or very seldom carried out, in the presence of the other prisoners.

Q I believe you stated that you served five years in a penal institution, is that correct?

A In the prison, yes.

Q Were you ever sentenced before that?

A Yes.

Q Why were you sentenced the other time?

A It was a strictly family matter. In my youth I had differences with relatives and they denounced me.

Q How did they denounce you?

A My relatives denounced me.

Q What was the accusation?

A That I enriched myself at their expense.

Q Now, you wanted to explain the payroll. Will you explain to me the discrepancies on the payroll if there were any?

A The basis of the payroll was the fact that the prisoners were divided up into three classifications. The capo, together with the civilian workmaster, drew up these classifications. And when the lists were drawn up and these classifications were made it was decided upon how many prisoners would fall into each class. It was directed that only 20 percent of the classification would include the best classification; 50 percent as mediocre, and the remainder as very insufficient. And after the classifications were determined according to the percentages the amount of pay paid each classification would be determined upon. The obercapo had top supervision over these lists, the chief capos of the quarry and the armament factory. And Schubert decided exactly how much money would be paid out, who based his conclusions upon the lists which had been drawn up. At the time when I and the obercapo drew up these lists I only did it for a few months. After that the staff sergeant from the sand division took over. And during that time Schubert always approved the proposals which were made them. I cannot understand how anyone can speak about Schubert falsifying these lists.

Q Did you ever have any occasion to change any of the payroll and the classification?

A No. I don't understand what you mean "change".

Q Well, after the list had been given you determining the classification of each prisoner were you ever directed to change the classification or did you ever change one yourself?

A No, the prisoners compensation lists were always drawn up in duplicate. I kept one copy and the uppercapo kept the other. It

often happened, of course, that because of the different classifications errors would occur and these errors would then be corrected by the capo or the workmaster. And it sometimes happened that a prisoner would complain to the chief capo about his classification and the chief capo might then direct that the classification be changed.

Q Did you ever gamble with other prisoners?

A Yes.

Q Did you ever report any prisoners for gambling?

A No.

Q Do you understand English?

A Very little.

Q How frequent were the beatings in the quarry?

A Do you mean the beatings which were carried out on the prisoners in the quarry?

Q That's right. You testified that Jakubith beat about twice daily. Now, among the other capos or other individuals, about how many beatings were administered in the quarry daily?

A That would probably be about the same. By and large the capos in the quarry didn't make many exceptions. But I didn't see that from my own observations.

Q Did you consider these beatings legal?

A No, it was forbidden to beat.

Q Were the SS guards present during the beatings?

A Yes, usually the beatings occurred because the SS guards were present because when the capos saw that they were being observed they drove their men to work—went after their men.

Q Is the court to understand, then, that the SS did nothing to prevent the beatings?

A No.

(Stefflinger-Court)

Q What do you mean by that, you mean they did nothing?

A No, they didn't do anything.

Q Were there not SS uards in the camp to keep order? I mean in the compound, the enclosure there?

A Outside the camp, and the watch towers.

Q Were there none inside the lager?

A No guard, but the block leaders during the course of the day had to take care of affairs inside the camp--take care of roll call and be sure that order was kept.

Q Did they make any attempt to break up the mob that attacked Ginschel?

A No, they weren't present there, otherwise that wouldn't have taken place. That took place in moments when the Russians believed that no one was observing them and they could carry it out.

Q Did Mathei carry a gumml or a club?

A Not usually, but he used a gumml in order to break up rioting.

QUESTIONS BY COLONEL SKIELKIG:

Q Didn't this system of prisoner pay classification which you have described offer a large opportunity for graft on the part of the capos who were actually making the classification?

A When the money was paid out in the presence of me or Kuebler, specifically in the presence of a staff sergeant of the SS, the ober-capo and the capo to whose division the money was being paid. It was paid to each prisoner personally.

Q You didn't quite get my point. For instance, if a prisoner wanted a higher classification than the one he had, suppose he wanted to pay the capo who would give him that classification money or a little food on the side. Wasn't that possible to be done?

A He could do that perhaps, yes.

Q Do you know of any moment in Hauser's particular detail where

they demanded food from prisoners for higher classifications?

A Hauser repeatedly asked that the men in his commando receive a better classification. As a basis for this he explained that his commando had harder work to do than the other commandos. But he couldn't reach any more than the total expanse of the classification would allow. Each hall had a particular number alloted to it.

Q Do you know yourself of any incidents where he accepted a bribe and gave a prisoner a higher classification than he should have had?

A No.

Q Do you know of any particular incidents where Schubert might have done the same thing?

A No.

Q Yesterday you testified with reference to Gieselman that you only saw him with prisoners at roll call, is that correct?

A That I saw whom by the roll call?

Q Gieselman.

A In connection with prisoners?

Q Yes.

A Yes.

Q How did he treat the prisoners at roll call?

A He treated the prisoners correctly. If they didn't stand up straight he shouted at them. It was very seldom that incorrect things took place during the roll call.

Q Did you ever see him hit or strike any of the prisoners?

A Yes, when someone was talking and it was forbidden to talk, he would go over to the party concerned and shout at him and perhaps prod him back into the line.

Q How did he prod him, with his gummi, with his foot, or with his fist?

(Stefflinger-Court)

A With his hand.

Q With his open hand or with his closed fist?

A I never saw anyone prodod so severely that it could ever have hurt him.

Q Answer my question. Did you ever see him hit anyone with his closed fist?

A I didn't see it myself to be sure, but I believe that he did, use his closed fist. My block was standing up around 1200 meters distant from his block at roll call and I couldn't observe it well.

Q Did you ever see him carry a gummi, whether at roll call or whether within his block?

A No.

Q Did you ever see Jakubith carry a pick handle?

A No.

QUESTIONS BY COLONEL STYLES:

Q You testified yesterday that Schubert was work manager in the quarry. Did Schubert have any authority over the prisoners in the quarry?

A He didn't have anything to do with the prisoners in the quarry. The prisoners in the quarry were managed by the work detail leader in the quarry and were supervised by the chief capo and the individual capos of the individual quarries.

Q Yesterday you testified that on several occasions Schubert reprimanded the prisoners, is that true?

A What I said was that in a well-meaning fashion he gave them admonitions.

Q Did Schubert take any action against illegal beating of prisoners in the quarry?

A He didn't have anything to do with that.

Q Do you mean to tell me he couldn't stop illegal beatings?

A No.

Q What was his rank?

A When he was wearing his uniform he was 1st lieutenant.

Q You mean to tell me he couldn't give a capo an order to stop beatings?

A He could have done that perhaps but if he had he would have made an enemy of the capo because the distribution of the prisoners at work was none of his business.

QUESTIONS BY PRESIDENT:

Q Did you ever hear what became of the adjutant, Baumgartner?

A- No.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q I am asking this question in the name of all the accused whom I represent: You told us about an incident for which you received twenty-five blows with a stick.

A Yes.

Q When did this incident take place for which you subsequently received the twenty-five blows?

A The incident took place around three weeks before I got the blows.

Q Do you know whether the blows which you received were directed by the commander of the camp or whether they came by an order via Oranienburg?

A I believe that the order came from Berlin because it took so long.

Q I consider this very important, and that's why I am asking the question: Was it common practice that several weeks went by between the actual incident before the blows were given out?

A As far as I know, the blows which were dispensed because of a misdemeanor as punishment for it and were given out in the arrest

building, were always ordered by Berlin.

Q You didn't understand my question correctly. What I want to know is in general, as a rule, how long a time elapsed between the committing of an incident before the prisoner received the blows which he was supposed to receive?

A Very often prisoners were punished right away in the clerk's office because of of a misdemeanor that was ordered by the adjutant or the commander or the leader of the protective custody department. But those prisoners who, at the conclusion of roll call were brought into the arrest building to be punished were receiving punishment for incidents which had taken place several weeks before.

Q So I understand you then correctly, if the punishments were properly ordered from Oranienburg or Berlin then several weeks would pass between the incident and the execution of the punishment, is that right?

A Yes.

MR. MCKAY: No further re-direct.

PRESIDENT: Recross?

MR. MARKOWITZ: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL BURCHAM:

Q Why were you given this legal beating?

A An SS man denounced me and I possessed a watch and I didn't say where I got the watch. As an excuse I said that I didn't know the prisoner any more and that was the reason for my punishment.

QUESTIONS BY PRESIDENT:

Q You mentioned that you had seen the lists of those cremated at Flossenburg during the years 1942 and 1943. Can you give the court any information with regard to those lists?

A I saw the list drawn up concerning cremations in the fiscal year 1942 and '43. There were calculations there for each one that was

cremated; either thirty marks or thirty zentners of coal was involved on these lists. I can remember that so well because I figured out how many prisoners had been cremated.

Q What lists are you referring to and where did you see these lists?

A I saw them in the administrative building; by a mistake they got into my hands.

Q Go ahead; give the court any further information you have about that.

A I figured out the percentage of how many people from the entire strength of personnel in the camp had been cremated, and I figured out that more than fifty percent of the entire personnel were cremated.

Q Your estimate is simply based upon calculations which refer to fuel, is that the idea?

A Yes, for the first day that the cremations would start, much more fuel was needed than for the following days, and I had to figure that all out.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q How many inmates of Flossenburg did you figure out when you were making these calculations?

A Around 4,500 men. At this time that was the average strength of the camp.

Q How many outside camps did Flossenburg have?

A I don't know that exactly.

Q How many camp inmates were in these outcamps?

A A much higher percentage than in the camp itself.

Q Where were the dead people in these outside camps cremated?

A I believe that a very insignificant percentage of them, those in the outside camps around the main camp, were burned inside the main camp.

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(Stefflihger-Redirect)

Q Do you know from which outside camps the dead people were brought to Flossenbürg to be cremated, and do you know from which outside camps they were not brought there?

A I don't know.

Q Don't you believe now that your calculations were rather inaccurate?

A At that time I was amazed at this very high percentage and I spoke about it to other prisoners because we in the camp itself never had the impression that so many were involved.

Q While you were in Flossenburg did you have your quarters in one particular block for a considerable length of time?

A Yes.

Q Did the number of deaths in this particular block while you were there agree with the numbers in your calculations?

A At that time when I was in Flossenburg very few people in the blocks themselves died.

Q Can you tell me approximately how many people died in your block?

A Perhaps half a dozen.

Q What did they die of?

A They died because they were sick and they were not accepted into the hospital.

Q Did they die of starvation?

A I believe that undernourishment played a very great part in that.

Q Did the parties in question suffer from tuberculosis?

A I can't judge that.

Q How do you explain, then, the high mortality rate in Flossenburg since so few died in the blocks?

MR. MCKAY: That question is objected to for the reason it is

shown in the evidence that the period of time covered by the statistics was prior to the time that he was there and doesn't cover the same period.

PRESIDENT: You are referring to prior to the time the witness was in Flossenburg?

MR. MCKAY: Yes.

DR. WACKER: I am asking the witness only in regard to the period from the 1st of January 1942 until 1945 when he left the camp, and I have understood the witness to mean that these calculations which he drew up were based on the years '42, '43 and '44.

WITNESS: These lists were drawn up to include the fiscal years 1942 and 1943, and the period ended on the 30th of March 1943.

PRESIDENT: The objection of Mr. McKay is overruled.

DR. WACKER: I then ask the witness to answer the question.

PRESIDENT: Just a minute. The court would like to ask the witness just when he entered Flossenburg?

WITNESS: In March '43 I came to Flossenburg. And I got a look at these lists two or three months later.

PRESIDENT: With the additional information that the witness has given the court, the objection of Mr. McKay is sustained. Under the circumstances, the court will entertain a motion by Mr. McKay.

MR. MCKAY: At this time I move that the answer to Dr. Wacker's original question be stricken from the record for the reason that it is now shown to be irrelevent and immaterial, the original question being argumentative in form. For the further reason that the facts now shown disclose that the comparison which was sought to be drawn was improper in that the record shows that the statistics which were the basis of witness' calculations occurred prior to the time that he was there and would not form a basis for a comparison with the time after he was there.

(Stefflinger-Redirect)

PRESIDENT: The court understands, Mr. McKay, that your motion simply refers to the original question upon which the objection was based.

MR. MCKAY: That's right.

PRESIDENT: The motion is sustained. Any further redirect examination?

MR. MCKAY: Nothing further.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Stefflinger, was the SS man who reported you concerning the watch Unterscharfuehrer Piepenstock?

A I wasn't reported for having stolen the watch but I was accused of having a watch in my possession, of having gotten it from someone without having the approval of the camp directors.

Q Was it Unterscharfuehrer Piepenstock who reported you?

A Yes. It wasn't Sergeant Piepenstock who reported me, but it was a sergeant from the camp Kasse, but Piepenstock was the one who made false testimony about it.

Q As a matter of fact, you offered to sell the watch to Piepenstock, didn't you?

A No.

MR. MCKAY: Just a minute. That is objected to as being argumentative.

PRESIDENT: The objection is sustained.

MR. BERKOWITZ: I am not arguing with the witness. I am asking questions to explain this incident dealt with by a member of the court.

PRESIDENT: The objection was sustained.

Q Did you know a man who worked in the laundry named Lothes?

MR. MCKAY: That is objected to as irrelevant and immaterial. There is no foundation for such a question shown here.

(Stefflinger-Recross)

MR. BERKOWITZ: If the court please, I will show the relevancy of this in just about two more questions.

PRESIDENT: A previous answer to a question which was overruled will be stricken from the record. The answer was "No".

MR. BERKOWITZ: Wasn't the objection sustained, sir?

PRESIDENT: The reporter will read the matter in question.

(Whereupon the matter in question was read by the reporter as follows:

"Q As a matter of fact, you offered to sell the watch to Piepenstock, didn't you?

A No.

MR. MCKAY: Just a minute. That is objected to as being argumentative.

PRESIDENT: The objection is sustained.")

PRESIDENT: The objection was sustained and, therefore, the previous answer will be stricken from the record.

MR. BERKOWITZ: I believe the court now has before it the objection of Mr. McKay concerning my question as to whether he knew a man named Lothes from the laundry.

PRESIDENT: The objection is sustained on the ground that the matter has not been covered in redirect examination.

Q You stated in response to a member of the court that you were punished with a thrashing or a beating because you refused to tell the name of the man from whom you received the watch. Isn't it a fact that you named a man named Lothes from the laundry and another man from the shoe shop as the people from whom you received the watch?

MR. MCKAY: If that question isn't argumentative, I have never heard one.

MR. BERKOWITZ: If the court please, I am here to find out why this man was punished. He has made a misstatement. I want to lay

the groundwork for impeaching his testimony before this court. He is portraying himself as a friend of the prisoners where, as a matter of fact, he denounced some innocent men and upon investigation it was found they were innocent and he was punished.

PRESIDENT: Mr. Berkowitz, the court directs that you refrain from argument at the present time of that nature. The court considers that that is not in the nature of evidence to appear before the court right at the present time.

MR. BERKOWITZ: That is exactly what I am trying to do, to produce the evidence, sir. It is not an argument but a production of evidence.

PRESIDENT: But you have made certain statements in the line of an argument and that is what the court wants you to avoid. The court will listen to any evidence of that nature that is brought out in proper form from the witness, but this is not the time for an argument on the part of the prosecution.

Reporter, please repeat the original question by Mr. Berkowitz.

(Whereupon the reporter read the question as follows:

"Q (By Mr. Berkowitz) Did you know a man who worked in the laundry named Lothes?")

MR. MCKAY: He is stating facts which this witness has never related. He is trying to place facts before this court which this witness has never mentioned.

PRESIDENT: The objection is sustained.

MR. BERKOWITZ: No further questions.

PRESIDENT: The court will recess until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours.)

CAMP DACHAU, GERMANY

6 September 1946.

AFTERNOON SESSION

(Whereupon the Court, at 1330 hours, reconvened.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all of the personnel of the Prosecution are present; all the personnel of the defense, with the exception of Major Oeding and Mr. Hall, who were absent on business of the accused, all of the accused are present, with the exception of Oswalt, Fenz and Schreiber, who are sick in the hospital and whose interests are being taken care of by their counsel, and Dr. Schmitz who is conferring with his counsel. The interpreter and the court reporter are present. The witness is reminded that he is still under oath, and if there are any spectators in the courtroom who expect to be called as witnesses, they are requested to leave the courtroom.

PRESIDENT: Any further redirect?

MR. McKAY: No further redirect.

DR. ENGELHORN: I am asking on behalf of the accused Schwarz.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN

Q Mr. Sterflinger, during what time did it happen that corperal punishment was performed in the arrest?

A All during the time I was there.

Q That would be from when until when?

A From March 1943 until January 1945.

Q Do you know that of your own observation or from hearsay?

A In every case I saw these people who were punished being taken from the formation grounds to the arrest. This punishment

took place that is in the yard of the arrest and not in the building.

Q Do you know which employes of the arrest were present there?

A I think that in most cases no employes of the arrest were present. The prison compound commander or his representative would be present and the camp physician and two or three block eldests and in many cases also the camp eldest.

Q Do you know what the purpose of the regulation which required the camp physician to be present was?

A To determine after the beating took place whether the prisoner had been injured so much that he was nolonger able to work.

PRESIDENT: Any further redirect?

DR. ENGELHORN: Nothing further.

PRESIDENT: Recross?

PROSECUTION (Mr. Berkowitz) Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. SKINKVIG

Q Mr. Sterflinger, after reconsidering your testimony with respect to your definition of the better element and the persons whom you placed in that particular category, I would like to know this: Did you base this definition of the word "better element" on the length of time in Flossenburg of the various prisoners, or upon their intelligence and education or upon their brutality, or just what did you have in mind when giving a definition of the words better element?

A Well, intelligence of course is one of the grounds also, but persons who had been in Flossenburg for a very long time had lost contact completely with the social customs of other places.

(Sterflinger - redirect)
" court)

Q Will you state once more just exactly what your definition was of the better element, in few words?

A I mean by this the people who in civilian life, due to their positions, had lived under orderly circumstances, who knew the difference between good and evil. I meant these people.

Q Now, returning to the testimony you gave this morning with respect to the letter which you read to the court, did I understand it correctly that you were confined because they did not want you to get in touch with any foreign nationals?

A Yes. I made this testimony voluntarily and without knowing that there was a regulation out prohibitting this and that I could be punished therefor.

Q What I wanted to get is the fact that you were not supposed to talk to any foreign nationals. That is the reason they wanted to confine you?

A That was not the cause. The cause was a denunciation that I had talked to old friends, that I had taken a position in opposition to national socialism and to conditions prevailing in Germany. But during the interrogation and because that was not sufficient cause to keep me in confinement, such a cause was looked for and it was found for that purpose that I had supposedly been in contact with persons employed by some other government.

Q Do you have that letter with you now?

A Yes.

Q Will you show it to the interpreter, please? I would like that particular part translated which refers to no further contact with foreign nationals, or something of that sort.

INTERPRETER: I can read a paragraph here stating causes.

Q All right; that is the one.

"According to the results of investigation by the police, he by his behaviour endangers the existence and the security of the people in the state, because it is to be feared that after spending five years in a penitentiary because of treason, that he would renew his former

(Sterflinger - court)

he himself is concerned. In other words, at any time when any question is asked of the witness that might tend to incriminate him, he may ask to refrain from answering.

DR. WACKER: I request that the witness refrain from answering this question for that reason that Col. Skiolvig asked about the secret service, whereas in the translation the word nachrichtendienst was used, between which, according to German law, a difference exists. Particularly in this paragraph a, b, c, and I also think there is a paragraph d, I think there is a differentiation made between these points. Therefore, according to German law, it is not the same whether somebody is in contact with the secret service or the nachrichtendienst.

PRESIDENT: Well, now, Dr. Wacker, that is entirely up to the witness.

DR. WACKER: Well I merely want to avoid. The Court asked about secret service and that gets to be translated as nachrichtendienst and the witness might possibly not know what to

(Sterflinger - Wolff)

connections to enemy intelligence services and/or take part in other activities to the detriment of the people and the state respectively.

(Signed) Kaltenbrunner."

DEFENSE COUNSEL: Too fast; can't understand it.

PRESIDENT: Slow it down a little bit. Give them a chance.

LT. COL. SKIELVIG: Col. Wilson, would you like that read again?

COL. WILSON: Our interpreter says it could be understood.

LT. COL. SKIELVIG: Read it again; take more time.

(Whereupon the Interpreter again read the paragraph from the witness' letter.)

Q Mr. Sterflinger, were you ever in contact with the secret service of any foreign country?

PRESIDENT: Just a minute. The Witness is cautioned as to his rights relative to the possibility of any incrimination as far as

answer to. At any rate, upon asking about secret service, the court would receive a different answer from the witness.

PRESIDENT: What the court was referring to was about the matter of the witness testifying. The court simply took the occasion--it thought necessary to protect the witness's rights as far as that was concerned.

DR. WACKER: I think the court has misunderstood me; all I wanted to avoid was that the witness answer about the Nachrichtendienst according to the translation of the interpreter, upon being asked by the court as to the secret service--

LT. COL. SKINKVIG: Colonel, I can take care of that; I will withdraw that particular question. Interpreter, I would like to know what term they used in there in that particular letter you have in your hand?

INTERPRETER: The term used here is nachrichtendienst, and I believe when I translated this letter I used the word intelligence service.

LT. COL. SKINKVIG: That is what I want to know. Was he in contact with any foreign intelligence service, as is mentioned in that letter?

A I never made any statements against Germany to any foreign intelligence service. However, I did against national socialism. That is, I expressed my disapproval of conditions in general.

LT. COL. SKINKVIG: No further questions.

PRESIDENT: Any further questions by members of the Court? Apparently not. Redirect examination? The court understands that the defense counsel has finished with this particular witness.

MR. McKAY: Yes.

PRESIDENT: The witness will be excused.

MR. McKAY: Does the Prosecution have any objection to this witness remaining in the courtroom?

PROSECUTION: Yes.

MR. McKAY: Will you inform him that he may be inter-

(Sterflinger - court)

rogated by the Prosecution later so that he will not remain in the courtroom?

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. McKAY: The next witness is being called at this time in behalf of the accused Jakubith, No. 21, only. He will be called later on behalf of other accused listed on the paper submitted to the court this morning. Call Mr. Lawriv.

SIMON LAWRIV, a witness on behalf of the accused, was duly sworn and examined by Mr. McKay, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name for the court?

A Lawriv.

Q And your first name?

A Semen.

Q What is your nationality?

A Ukranian.

Q What is your present business or occupation?

A I am a factory worker now.

Q And where are you at present employed?

A Neustadt, near Coburg, at the cable mill.

Q Were you formerly a prisoner at Camp Flossenburg?

A Yes.

Q And during what period of time were you a prisoner in Flossenburg?

A January 1943 until 1945, April.

Q During the time that you were a prisoner in Flossenburg to what detail were you assigned to work?

A I was in camp working as room service, in the barber shop, in the quarry.

Q What period of time were you working on the detail in

the quarry?

A Towards the end of 1943 for about three months.

Q In which part of the quarry did you work?

A Quarry one.

Q And who was the capo in charge of the detail in which you worked?

A I don't know his name and he was there for a short time only and the assistant capo was Jakubith.

Q You stated that Jakubith was the assistant capo. Did that situation ever change while you were on that detail?

A That changed. The other one was removed, for what reason I do not know, or maybe he was sent to another detail.

Q How long did you actually work on the detail with Jakubith as the capo in charge of the detail?

A Most of the time; during the first part or possibly the latter part of the first week the other man was removed.

Q And during the time that you were in Flossenburg, what nationality were you considered as having while you were in camp?

A Polish.

Q And how did that come?

A Because I had been in Poland prior to 1939. My nationality was Ukranian but I was a Polish citizen.

Q Will you explain to the court how you got to Camp Flossenburg?

A Through whom, or by what means of convdyance?

Q Will you tell the court the circumstances under which you were sent to Camp Flossenburg?

A I had been sent to Germany and had been assigned to the cable mill in Neustadt to work there. I met a girl there who was a German and I went steady with her, after asking the local government whether it was prohibitted for us to go with German girls we received the answer that it was not prohibitted.

Q How did you happen to get into Camp Flossenburg?

A After going with her for half a year I was arrested by the instructions of the gestapo for association with German women. I was in jail for four months, three of them with the gestapo in Nurnberg, and then I was sent to Camp Flossenburg.

Q During the time that you worked on this detail under Jakubith, did you have an opportunity to see how Jakubith treated the prisoners?

A Yes.

Q Will you explain to the court how Jakubith treated you as a prisoner.

A He treated me well.

Q Will you explain to the court how he treated the other prisoners that worked on that detail along with you?

A In general he treated the other prisoners well.

Q What do you mean by he treated the other prisoners well?

A Well, if it wasn't necessary to beat them or anything, or if there was any help to be taken to them, then he was willing.

Q Did you ever, during that period of time, know of Jakubith beating prisoners?

A Yes.

Q Will you explain to the court just what you saw on those occasions that you saw Jakubith beating prisoners?

A If he did beat, he did not beat without reason.

Q Will you explain that to the court?

A Well, if somebody didn't want to work or started pushing while the food was being issued and he did not want to report this then of course he beat them either with his open hand or perhaps a few kicks to get them in the line.

Q Will you explain to the court, if you know, what would have happened to the prisoner if he had turned in a report on him?

(Lawriw - direct)

A If a report had been made he would have been punished by the S.S. perhaps even worse than these few slaps he got from the capo.

Q Will you just explain to the court whether as a prisoner you would have rather been slapped than have a report turned in on you?

PROSECUTION: Just a minute. I object to that, may it please the court, on the ground it is immaterial and irrelevant to this case what he would have preferred. What he would have preferred may not necessarily mean that is what would have been preferred by other prisoners who were there. It calls for conclusion on the part of this witness and invades the province of the court.

PRESIDENT: Objection sustained.

DR. WACKER: I would like to see that it is translated, anyway.

PRESIDENT: All right; now, Interpreter, that is your job. Go ahead.

(Whereupon the Interpreter gave the question in German.)

PRESIDENT: Just a minute. Is that all?

INTERPRITER: Yes, sir.

PRESIDENT: Did you get the ruling of the court?

INTERPRETER: Yes, sir.

PRESIDENT: O.K.

QUESTIONS BY MR. McKAY (Continued)

Q Will you explain to the court just what was present on this detail in the Quarry One, which the prisoners used to work with?

A Yes.

Q Describe what was there to the court?

A There was a crane, carts and rails, or push carts, drill presses, hammers.

DEFENSE COUNSEL: I question the translation.

PRESIDENT: Be a little more specific.

DEFENSE COUNSEL: I think the witness said pressluft,

which I understand is compressed air.

INTERPRETER: Hammers operated by compressed air.

A Shovels, picks, and little chisels to split rock.

Q Now will you explain to the court just the type of work that was being done by the detail that worked under Jakubith, on which you worked during the period of time that you were there?

A The only thing done under Jakubith was the removal of waste and also the removal of finished rocks which were to be used.

Q Now you stated that there were air hammers and drills on this, as part of the equipment. Will you explain to the court how these were powered?

A They were connected with the main line by means of rubber hoses, and the drills were used to drill holes and the hammers to make small holes to put the wedges in.

Q Can you give the court any idea of how big around these air hoses were?

A These air hoses?

Q Yes.

A These air hoses were built into the ground.

Q Well, now, just how large was the hose that actually connected to the machine that bored the holes and cut the rock?

A Well, you could get your hand around it, so it might be four or five centimeters wide.

Q How can you give the court any idea of the construction of that hose that was used to connect to the machine itself?

A There was a mouthpiece and a connection which connected it to the machine. Exactly how that was, I don't know.

Q Well, can you give the court an idea of the construction of the tubing itself?

A In the inside it was rubber and around it there was some cotton wrapped crosswise and then more rubber and finally wire outside. Some of them were without wire.

(Lawriv - direct)

Q Will you explain to the court, if you know, how much air pressure was put through this hose to operate these machines?

A The pressure was six atmospheres.

Q Have you ever had occasion to be near one of those hoses when the air was rushing out of it?

A Yes.

Q Will you describe to the court just the amount of force that came out of that air hose when the air was passing through it?

A With very great force.

Q Now will you describe to the court just the physical set-up of the quarry with regard to whether it was level or whether there were hills or anything in this quarry One, where your detail worked?

A Yes.

Q Will you describe that?

A Had about a semicircular shape. On one side there was the stone quarry built and on the other side the road or the stairs.

Q Now where was the rock which was later transported removed from?

A From the left side.

Q Now did you, as a prisoner, ever have any occasion to work where the rock was being loosened?

A I myself did not work there but I saw others work.

Q Will you describe what you saw when you saw others working there?

A Most of it was drilling holes into the rock and later on charges were put in by civilian skilled workers.

Q Will you explain to the court just what precautions, as far as prisoners were concerned, were taken when these charges were set off?

PROSECUTION: My objection to that, if the court please, is that it is leading and suggestive. It implies that precautions

(Lawriw - direct)

were taken and there is no testimony that precautions were taken.

MR. McKAY: I will withdraw the question. Now, prior to the time that these charges were detonated by the safe master, was anything done with regard to protection of prisoners?

A It was not necessary.

Q Will you explain to the Court what, if anything, happened with respect to the prisoners prior to the time these charges were set?

A The prisoners kept on working; only prior to the blasting was that announced.

Q And what would happen then?

A When the blasting was to be done a signal was given at three different times by means of a trumpet so that prisoners or anybody else who might be in the vicinity would leave.

Q Will you explain to the court whose responsibility it was to see that the prisoners did get out of the way when the trumpet sounded?

A Responsibility of the master and of the capo.

Q Now you stated that you observed people working up there, loosening rock. Will you explain just how these people were equipped who were up loosening the rock?

A Well the holes were dug and later blasted away.

Q But, after the blasting, will you describe what equipment the prisoner would have when they would get up and loosen the rock?

A If the rock was so big that it would not slide down the slope by any other means, then it was pushed away with rods.

Q Now were there any particular prisoners who had to do that work?

A Those were mainly those who did the drilling, together with the masters.

Q During the time that you were on this detail, did you ever have occasion to observe sick people on the detail?

(Lawriw - direct)

A Yes.

Q Will you explain to the court how Jakubith as capo treated these sick prisoners?

A If it was possible for him to get them lighter work, then he would put them to lighter work.

Q Did you ever have any occasion to observe whether prisoners were injured while working on this detail?

A No.

Q During the time that you were there did you ever have occasion to see prisoners carried away from the detail?

A No.

Q When did you go to work in the morning on this detail under Jakubith.

A We started working as soon as we arrived at the stone quarry at the moving out.

Q Can you explain to the court about what time of the day that would be?

A It differed; early in summer and later in winters.

Q Well, give us the time of day that you would go to work in the summer?

A In summer we would finish at six o'clock and at about a quarter to seven or seven we would start working.

Q And what would the time be during the winter?

A In winter according to the time it became light.

Q Well, what time of day would that be?

A The formation was at seven o'clock and if it didn't get light before eight, we would start working even though it might be dark.

Q In the summer time when would you complete the detail in the evening? Complete your work?

A At six.

Q And when would you complete your work in the winter time?

That is a question that goes to the question: "State whether

A 5:30, I think.

Q Now during the time that you worked on this detail did you have any time off to eat lunch?

A Yes.

Q How long a time would you have?

A It was supposed to be an hour but some times the signal was given before that and it would not be a total hour then. At any rate, in winter it was cut down.

Q Now, during your time off, during the lunch hour, what did you do?

A We could sit down somewhere or stand around. Whatever you wanted to do.

Q Did you get any food during that period of time?

A Yes.

Q And who distributed that food?

A The capo.

Q And who was the actual capo who distributed the food?

A It was a capo from the halls and from the quarry.

Q Well, now, when you worked in the quarry who distributed the food.

A Different details came together from the quarries so there were quite a few commandoes, and it varied.

Q Now during the time that you worked in the Quarry One, did you ever know of a punishment detail working in the quarry?

A There was no punishment detail in the stone quarry, only a transportation detail, and some prisoners were transferred to the detail as a punishment.

Q How long did you continue to actually work under Jakubith on this detail?

A All the time I was in the stone quarry.

Q Will you explain to the court how you came to be assigned to that detail to work?

(Lawriw - direct)

A As I was kicked out of the barber shop I was to be sent to the stone quarry. I didn't want to go to the 3004, the so-called Messerschmidt, so I worked it out with my conrades that they would get behind me so that I would be assigned to the stone quarry to work.

Q Will you explain to the court why you didn't want to work in the Messerschmidt factory?

A Anybody who was assigned to Messerschmidt and learned his work there was never able to get released again as a skilled worker, or be able to get any other work anywhere else.

Q Well, now, will you explain to the court just how much physical work was required on this detail where you worked under Jakubith?

A Work wasn't too hard and if it was possible and no inspectors or checkups were around and somebody just stood there, then Jakubith wouldn't say anything about it either.

Q Will you explain to the court what would happen when these inspections were going to take place?

A Then he would yell and put people to work so that no attention would be drawn to any of his men or he himself would get burnt.

Q During the time that you worked on this detail did you ever try to get off the detail on some other detail?

A No.

Q Why not?

A I didn't have to strain myself working and there wasn't any better detail in the stone quarry.

Q Can you explain to the court what would have happened if someone had picked up one of those air hoses and put it in a prisoner's mouth?

A The prisoner would certainly have exploded if he had had that hose in his mouth.

Q During the time that you worked on this detail did you

ever observe any place in the quarry which was used for a clerk's office?

A Yes.

Q Where was that located, in relation to Quarry One, where you worked?

A Up on the hill.

Q Can you give the court an idea of the distance between the detail and this clerk's shack?

A Three to five hundred meters.

Q And during the time that you worked on this detail in the quarry, will you explain to the court whether you ever received any extra ration of food or anything, during the time you worked there?

A Yes.

Q Will you explain this?

A About nine o'clock or 9:30, I don't remember the time exactly, we received breakfast as an addition for hard laborers.

Q What did you get at that time?

A Bread with margerine.

Q And who was in charge of the distributing of that?

A The capo.

Q Do you think you could identify Jakubith if you saw him again?

A Yes.

Q Will you look at the men sitting behind me and see if you can recognize the man you knew as Jakubith?

A Yes.

Q Will you point him out to me?

A (Witness indicates one of the prisoners in the dock.)

Q Let the record show that the witness has identified the accused, No. 21, as Jakubith. That is all.

PRESIDENT: Further redirect examination on the part of other defense counsel?

(lawriv - direct)

requiring a [illegible]

Now with respect to that last, this illustration is given: "Question: State whether A did or did not stab B."

That is a question that goes to the question: "State whether

ever observe any place in the quarry which was used for a clerk's office?

A Yes.

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PRESIDENT: Further redirect examination on the part of other defense counsel?

(lawriv - direct)

DEFENSE COUNSEL: No, sir.

PRESIDENT: Cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION

Q Is it not a fact that Jakubith carried a rubber hose around with him while he was cape?

A These were only instances.

Q Just answer the question, please. Do you understand the question?

A I did answer it already.

Q Is it a fact that Jakubith carried a rubber hose around with him while he was cape in the quarry?

MR. McKAY: That is objected to as argumentative in form.

PROSECUTION: May it please the court, I would like to be heard on that.

PRESIDENT: Proceed.

PROSECUTION: The other day counsel read to the court the section from Wigmore's Code of Evidence, Section 711.

> "A question to an opponent's witness assuming as true a matter which he has not yet testified to, or otherwise implying into his testimony unfavorable matters not yet admitted by him, is not allowable."

Now you translate this, Mr. Interpreter.

The Court will note that is predicated on the premise that it assumes as true a matter which has not yet been testified to. The question propounded was in this form: Is it a fact that so and so took place? The question asks for the truth or falsity of that statement, without assuming anything.

PRESIDENT: Now, Col. Denson, are you basing your argument on a previous case or the present case?

PROSECUTION: I am basing it on the present case. The question that I asked the witness was, "Is it a fact that Jakubith carried a rubber hose around with him while he was a cape in the

quarry? All of my remarks, may it please the court, are made in support of the propriety of that question. The basis of his objection was that it is argumentative in form and improper, and, knowing that this court does not desire to be arbitrary, I wish to point out to the court what is in fact an argumentative question.

PRESIDENT: The only thing, Mr. Prosecutor, confine your remarks right to the objection before the court at the present time. As the court recalls, in the previous case that you have mentioned, the question that you have in mind was of more or less a compound nature. In other words, a clause contained the word "or", and if you are referring to the objection that the court has in mind it was purely argumentative.

PROSECUTION: Well, now, may it please the court, I do not want to depart from my argument in support of this original question that was propounded, but if the court is willing I have no objection to going into the matter as to the form of a question which states in substance: State whether or not so and so.

PRESIDENT: No objection to that.

PROSECUTION: In other words, if the court would like to hear authority with respect to the propriety of that I can shorten this very much by just reading to the court this statement from Wigmore.

PRESIDENT: All right; proceed.

PROSECUTION: I read from paragraph 708, may it please the court, on Wigmore on "Evidence":

> "A leading question is one which suggests the specific tenor of the answer desired from a witness, presumably favorable to the party questioning and is forbidden unless the circumstances of the case (1) render it not improperly suggestive, (2) or make it nevertheless necessarily subject to the following provisions:
> Paragraph 1. A question which in form assumes a controverted fact; or (2) Permits a simple answer 'Yes' or 'No', is usually improper. And a question which states alternatives requiring a verb in the answer is not improper."

Now with respect to that last, this illustration is given:

"Question: State whether A did or did not stab B."

That is a question that goes to the question: "State whether

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so and so is or is not true?" So that with respect to that form of question, "State whether so and so is or is not true", that is perfectly proper, as shown by the example.

But, getting back to this ground for an objection that a question is argumentative, it must be shown before a question becomes argumentative in character that it assumes as true something which has not as yet been testified to. But when you propound a question in the form "Is it a fact", or "Is it not a fact", you have a question that is perfectly proper in that it is asking for the existence, yes or no, of that particular matter inquired about, without assuming anything. The illustrations that are given to point out this type of question that is improper as stated here in Wigmore, are as follows:

"To a witness who denies that he made an assault, this question: "What did he say to you before you used your knife?" That of course, assumes that he used his knife and asks a question calling for an ancillary of some matter or something that took place prior to the time of the compound question where the second part assumes the issue in the case. And, may it please the court, here is another example which is given in an action for libel or slander, where, of course, the truth of the matter is an issue in the case-truth being a defense in most cases of libel and slander, except where it is criminal libel or criminal slander,—this question:

> "To a witness who testifies to the words of an alleged slanderous statement:
>
> "Are you always so particular in listening to the truth about your friends?"

Now the court can see from that example that the assumption is, that the libelous or slanderous statement was true. That is the type of matter that is contained in this type of question where it said that the question is misleading or argumentative in character. So I submit, may it please the court, that a question in the form that was propounded as this question was that has been objected to by counsel, is certainly proper and does not fall within

the condemnation of the grounds set forth by counsel in his objection.

DEFENSE COUNSEL (Mr. McKay): I will add the additional ground that the question in form is intimidating. I would like to call the court's attention to the phraseology of the question itself. He says, to begin with: "Is it a fact?" In other words, he is trying to propound to this witness and say, "Now, you haven't told us the facts., Let's have the facts." Now if he wants to ask the question, what he wants--I must educate him--why doesn't he say, Did or did he not carry a gunny? And I call the court's attention to the Paragraph 712 which follows the one that the Prosecutor just referred to, which specifically points out this:

> "A question which in manner or substance is calculated improperly to intimidate or discredit a witness and thus groundlessly to make testimony appear less trustworthy than it is, is not allowable."

PROSECUTION: May it please the court, that is just an example of what I have reference to. Counsel can read all right, but the application is extremely faulty. I will be perfectly willing to withdraw from this case if counsel can show me anywhere where a question which has as its predicate "Is it a fact", that that question in form has been found or held to be intimidating. Only in the brain of counsel for the Defense has any such a contention ever before been advanced and, as I said before, I will withdraw from this case if he can show this court anywhere where a question in that form has been held to be intimidating in nature.

PRESIDENT: The objection is over ruled. It is perfectly true, Mr. McKay, that if the Prosecutor had followed out in detail the tactics that you demonstrated there might have been a question of intimidation, but the court does not believe the Prosecutor followed out the tactics that you have indicated. It is clearly evident that the policy of this court is that no witness will be intimidated by either the prosecution or the defense.

PROSECUTION: Will you read the question please?

(Whereupon the question was read by the reporter.)

A Not always.

Q When did he carry it around with him, Mr. Lawriv?

A Well, I can't give you the exact time either.

Q Well, you worked in the quarry with him for approximately three months, is that not so?

A Yes.

Q And during that time how frequently did he carry this rubber hose around with him?

A If I am under oath and if I say ten times, I might be lying; and if I say eight times, I might be lying, because I can't say that exactly either.

Q Well, sir, I will ask this question: Is it a fact that he carried it around with him a majority of the time?

A No.

Q Can you give the court any judgment as to the frequency with which he carried it around?

A I can't give you any judgment as to how frequently he did it, because I couldn't be watching the capo to see whether he was carrying a rubber hose or doing something else. I had to work, myself, too.

Q What did he do with the rubber hose that he carried around with him?

A It was a short hose, and he beat.

Q What did he beat with it?

A Those who deserved it.

PROSECUTION: I move to exclude that, may it please the court, on the ground it calls for a conclusion from this witness and invades the province of this court.

DEFENSE COUNSEL (Mr. McKay): It is responsive to the question that the Prosecutor asked.

(Lawriv - cross)

PRESIDENT: Read the question and answer, please, reporter.

(Whereupon the question and answer were read by the reporter.)

PROSECUTION: As to whether or not someone deserved it or not, may it please the court, would be dependent upon any circumstances and facts which are not before this court, and it would ask this man up as a judge to determine whether or not they did or did not deserve it, and I say that invades the province of this court. Whether it is responsive or not, may it please to court, it is immaterial.

PRESIDENT: Motion is sustained. Court will recess until 1:30.

(Whereupon the court, at 1500 hours, recessed.

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding and Mr. Hall who are absent on business for the accused; all the accused are present with the exception of Oswalt and Penz who are sick in the hospital and whose interests are being taken care of by counsel, and Dr. Schmitz who is in conference with his counsel.

The witness is reminded that he is still under oath--

MR. MC KAY: Schreiber is still in the hospital.

PROSECUTION: --and if there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

Let the record also show that the accused Schreiber is sick in the hospital and his interests are being taken care of by counsel.

SENON LAWRIV, a witness called by the defense, having resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION (Cont'd)

QUESTIONS BY PROSECUTION:

Q Now, Mr. Lawriv, who was it that Jakubith

beat with this gummi?

A When he knew that a man was guilty.

PROSECUTION: I move to exclude that answer, may it please the court, on the ground th t it calls for an undisclosed mental operation of Jakubith.

PRESIDENT: Motion sustained.

Q Were prisoners beaten with this gummi by Jakubith?

A Not always with the gummi.

Q Will you please answer my question?

A I can't st te under oath that he always beat--that is, yes or no.

Q I didn't ask you whether he always beat. I asked you whether or not he beat. I will ask you to please confine your answers to my questions.

A Yes.

Q Then is your answer to the question "Yes", that Jakubith did beat prisoners with the rubber hose?

A Yes.

Q Did Jakubith also use a wooden club or stick to beat prisoners?

MR. MC MAY: Objected to for the reason it goes beyond the scope of cross examination.

PROSECUTION: Now, may it please the court, I'd like to be heard with respect to that.

PRESIDENT: Proceed.

PROSECUTION: I am reading, may it please the court, from Wharton's "Criminal Evidence", Vol. III. After

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I have finished reading, Mr. Interpreter, I will give you this volume and let you translate into German the matter that has been read to the court. Reading Paragraph 1291:

> "A reasonable cross-examination should be allowed in the criminal prosecution and a witness should not be withdrawn from the stand until this cross-examination is completed unless the withdrawal is merely temporary. Indeed, cross-examination of a witness as to facts in issue or relevant to the issue is a matter of right, not of discretion. The cross-examination may be for the purpose of showing the falsity of testimony given by the witness. Matters affecting the witness's veracity are subject to such cross-examination. A party to a criminal action may, therefore, properly cross-examine an opponent's witnesses as to matters covered in the direct examination. A full cross-examination of a witness upon the subjects of his examination in chief is the absolute right, not the mere privilege, of the party against whom he is called, and a denial of this right is prejudicial and fatal error."

I'd also like to read to the court Paragraph 1294, the subject of which is "Latitude allowed on cross-examination" (Reading)

> "Opportunity should be allowed for a thorough and sifting cross-examination which should be neither unduly restricted nor abridged. The denial of a fair latitude in cross-examination is a denial of a substantial right and a withdrawal of one of the safeguards essential to a fair trial. It is, therefore, generally held that a wide range of cross-examination is permissible and that wide or great latitude is allowed, especially in capital cases. The court should never interpose except where there is a manifest abuse of that right, but should extend rather than restrict the right of cross-examination as to facts in issue or relevant to the issue.

(Lawriw - Cross)

> "In some cases the rule is stated with less latitude. It is said that at least a reasonable cross-examination is permissible. Indeed, the right of reasonable cross-examination by leading questions is absolute. The denial of it is the denial of a valuable right, and, if prejudicial, constitutes reversible error. Nevertheless, the cross-examination must be kept within fair and reasonable limits, and though the questions often take a wide range, they should be confined within the bounds of reason, and controlled by the discretion of the trial court as to their materiality, and by the reasonable restrictions imposed by it. However, more latitude is allowed in the cross-examination than in the direct examination, and mere doubts as to the propriety of the extent of cross-examination are to be resolved in favor of the cross-examiner."

Now I'd like to also point out to the court Section 1303, which deals with the matters that may be inquired about. (Reading)

> "A witness may be cross-examined on any testimony given on his examination in chief and as to the basis of his statements on direct examination. Generally, however, a witness cannot be cross-examined as to matters not gone into on the direct examination, unless the question asked tends to show motive, interest, or animus, or unless it is for the purpose of testing his memory or credibility or laying the basis for impeachment."

Now, Paragraph 1304, concerning the "Application of principle." (Reading)

> "The cross-examining party is not confined to a mere categorical reiteration of the witness's testimony in chief; nor is he required to frame his questions in the language used by counsel in the direct examination. The cross-examination may be as searching and broad as the foundation upon which it rests and extend to facts and circumstances apparently germane to the facts testified to in chief. If

the direct examination opens on a general subject, the cross-examination may go into any phase of that subject. Although the cross-examination should be kept within fair and reasonable limits, it need not be confined to the precise phases of the subject introduced on direct examination, but may be extended as a matter of right to facts relative to the issue or incidental to the matter. If the direct examination raises an inference unfavorable to a party, matters within the witness's knowledge rebutting such reference may be elicited on cross-examination although collateral to the issues. Nor is a cross-examination not entirely foreign to the testimony in chief, and having any tendency to impair its credibility, ground for a reversal. Indeed, it is held that the rule should be so liberally construed as to permit any question which reasonably tends to explain, contradict, or discredit any testimony given by the witness in chief, or which tends to test his accuracy, memory, veracity, character, or credibility. In other words, cross-examination to impeach, diminish, or impair the credit of the witness is not confined to matters brought out on the direct examination; the witness may be cross-examined as to matters not embraced in the direct examination to test credibility."

Now, may it please the court, specifically this witness has testified that he in general treated prisoners well and I say that when that matter was opened up by counsel and the witness made that answer as to how Jakubith treated the prisoners I have a right to go into any phase of his conduct with respect to prisoners, and I submit that it does not in any manner exceed the scope of cross-examination.

PRESIDENT: Anything further, Mr. Prosecutor?

PROSECUTION: Nothing further.

(Lawriw - Cross)

MR. MC KAY: I do not care to go into a long discussion of this sort of thing. The court has a law member at its disposal to answer such elements as questions of law. The simple fact is this, that cross-examination is always limited by the scope of direct examination, and it is the responsibility of this court to keep this proceeding in an orderly manner. The rights which the prosecutor has referred to are contained in that section of Wharton which refer to specific rights of accused, but the prosecutor fails to take into consideration that he is representing not the accused, he is a prosecutor and is subject to the limitations of such.

PRESIDENT: Reporter, read the original question.

(Whereupon the reporter read the question as follows:

"Question. Did Jakubith also use a wooden club or stick to beat prisoners?")

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1600 hours.)

(Whereupon the court was opened at 1615 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and prosecution are present; all the personnel of defense are present with the exception of Major Oeding and Mr. Hall who are absent on business for the accused; all the accused are present with the exception of Oswalt, Schreiber and Penz who are confined to the hospital and whose interests are being taken care of by counsel, and Dr. Schmitz who is in conference with his counsel.

The witness is reminded he is still under oath.

If there are any spectators in the court room who expect to be called as witness in this case they will please leave the court room.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

CROSS EXAMINATION (Cont'd)

QUESTIONS BY PROSECUTION:

PROSECUTION: Would you read the question?

(Whereupon the reporter read the question as follows:

"Question. Did Jakubith also use a wooden club or stick to beat prisoners?")

A I did not see that he had a stick.

Q Have you ever heard that Jakubith used a wooden club or stick to beat prisoners?

A No.

Q You stated that you never saw prisoners carried away from the detail, is that correct?

A Yes.

Q Can you tell the court whether or not any prisoners died in the stone quarry while you worked there?

A I can't state anything about the whole quarry; I can only state facts about Quarry 1.

Q You never at any time then, while you worked in the quarry, saw bodies taken out of the quarry, is that right?

A In the hundred I was marching I could not see what was going on in the other hundred after the work.

(Lawriv - Cross)

Q Is it a fact that those people who weren't able to leave the quarry at the time their group marched out were moved out by the detail that was the last one to leave the quarry?

A That all depended. If there were sick people belonging to the last hundred they were carried out by them, but I can't say anything about dead people.

Q Well, did you ever see any of these people carried out from the detail?

MR. MC KAY: That's objected to. "These people"-- it's not clear to what the prosecutor has reference.

PROSECUTION: I think, may it please the court, the witness understands. He may say, and if he does not understand he may also say that fact. If counsel wishes to clarify the matter, he has an opportunity to do that on redirect examination; that's one of the purposes of redirect examination.

PRESIDENT: Objection overruled.

(Whereupon the last question was repeated by the interpreter.)

A After work hours I saw while I was in the camp that several people were carried in, but I can't state that they were dead.

Q How old are you?

A Twenty-five years old.

Q What block did you live in?

MR. MC KAY: Just a minute. That's objected to as going beyond the scope of cross-examination.

(Lawriw - Cross)

PROSECUTION: May it please the court, I don't think it's going beyond the scope of cross-examination at all. I want to find out what block he lived in, whether he lived in the same block with Jakubith, what their relations were, whether they were friendly or intimate.

PRESIDENT: Objection overruled.

(Whereupon the last question was repeated by the interpreter.)

A When I arrived in Flossenberg I was put as a juvenile in Block 13. Later on I was transferred to Block 14. For a short period of time I was in Block 9, for about two weeks. From Block 9 I transferred to Block 14 again. When I was transferred to the barber shop I lived in Block 8. And during the last period, shortly before I was released, I was in Block 1.

Q And were you at any time ever living in the same block with Jakubith?

A During the period that I was in Block 1.

Q Now, what work did the transport detail perform in the quarry?

A They had to transport any necessary parts or repair parts to Detail 9004, the Messerschmitt Factory, or to the shops.

Q Did they ever carry stones?

A I don't think so.

Q Did you ever see that detail at work in the quarry?

A I was with this detail for two or three days.

Q And was that immediately after you were kicked out of the barber shop?

A One week later, perhaps a little more.

Q Who got you that job in the quarry?

A My comrades in the barber shop.

Q Is it a fact that only those persons who were working on the transport detail were prisoners who had been sent there for the purpose of being disciplined?

MR. MC KAY: That's objected to as going beyond the scope of cross-examination.

PROSECUTION: May it please the court, I'd like to call the court's attention to the fact that this witness testified there was no punishment detail in the quarry, but there was a transport detail, and if my memory serves me correctly he stated something with respect to prisoners being punished and sent to that detail.

PRESIDENT: Objection overruled.

(Whereupon the question was repeated by the interpreter)

A They were transferred for penal reasons to the transport detail.

PROSECUTION: No further questions.

PRESIDENT: Redirect examination?

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q You stated you saw several people carried into the camp in the evening. Will you explain to the court whether those people came from Quarry 1?

A No.

Q Now, you stated that you lived for a short time in Block 1 along with Jakubith; just how long was that?

A Three and a half to four months.

Q Now, were you actually working on the detail in the stone quarry at that time?

PROSECUTION: I object to counsel leading the witness, may it please the court.

MR. MC KAY: I will rephrase my question.

Q Explain to the court just what detail you were assigned to while you lived in Block 1.

A I already explained that after I had left the barber shop I had been assigned to a detail in Block 1, and later on to the stone quarry.

Q Now, when you speak about the transport detail working in the stone quarry, will you explain just what you mean by that?

A Worked just like all other prisoners worked.

Q Will you explain to the court just where the Messerschmitt Factory is, in relation to the stone quarry?

A The Messerschmitt Factory had been converted in factories from stone quarry--from the stone quarry factories; they used to be stone masons' halls.

Q Well, now when you speak about the transport detail working in the stone quarry, do you refer to actually Quarry 1, or do you refer to the general area including the Messerschmitt Factory and quarry?

PROSECUTION: I object to that question, may it please the court, on the ground that it is leading and suggestive.

MR. MC KAY: I will withdraw the question and rephrase it.

Q I'd like to have you explain to the court just what you mean with regard to the transport detail working in the Messerschmitt Factory and the quarry, as you have described it on your cross-examination.

A The stone quarry was the old name. There was no distinction made between Messerschmitt Factories or stone quarry, it all went under the name of stone quarry.

Q Will you explain to the court whether at the time that you were working on this transport detail there were any prisoners on that detail who were not there for punishment?

A Yes.

Q Going back to the time that you lived in Block 1 were you an orderly in Block 1?

PROSECUTION: I object to counsel leading the witness, may it please the court.

PRESIDENT: Objection sustained.

Q Now, during the time that you were living in Block 1, will you explain to the court what if any duties you had in connection with the block?

A I did not have any duties.

MR. MC KAY: That's all.

(Lawriv - Redirect)

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q When the Messerschmitt Factory was located in the quarry, they were still cutting stone in the quarry, were they not?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q You said that while you were working in the stone quarry that some of the people were carried out. Do you know why those people were carried out?

A I did not see that while I was working in the stone quarry.

Q Well where were you working when you saw them carried out of the stone quarry?

A I was in the camp. I was working in the camp, in the barber shop, and we could see thepeople marching from the quarry.

Q Do you know why these people were carried in?

A According to my opinion, some of them were weak and could not walk; others might have had an accident, I can't say exactly.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q Did you work on the transport commando?

A Two or three days.

Q Why?

A Because I was not cautious enough. The ober-capo of the stone quarry came along and instead of hiding I just remained sitting. That is to say, I could appear obnoxious to him as well as to an SS man, and that was guilt.

QUESTIONS BY THE PRESIDENT:

Q You have testified that Jakubith treated the prisoners in general well. What did you mean by that? In other words, the court feels that you have qualified your statement; do you desire to explain to the court just what you meant by the term "in general"?

A When the ober-capo, Rochel, and other capos were still there the capo Pipl's attitude was a different one. He did not pay too much attention to the prisoners and did not drive them to work. He let them go to the latrine and did not say anything when they returned after having been away for some time. He shared his food with the prisoners and--to smoke cigarettes was forbidden, and if he saw someone smoke a cigarette he would not say anything about it. During the wintertime he allowed them to get warm in the shack near the fire.

Q Now, when you are referring to Pipl, or Shortie, whom do you mean?

A Jakubith.

PRESIDENT: Any further questions by members of the court?

(Lawriw - Court)

QUESTIONS BY COLONEL SKIKLVIG:

Q Why were you kicked out of your job in the barber shop?

A Someone caught me with a sack of coal that I carried to the barber shop.

Q When you were put to work on the transport for three or four days, just what kind of work did you do during that time?

A I carried parts of airplanes, wings, and shoveled coal, and transported one machine.

QUESTIONS BY THE PRESIDENT:

Q Did you get enough to eat when you were in Flossenberg?

A You can't say "enough". People who had to work hard, for them it wasn't enough; it was too little.

Q Did you see any evidences of lack of food as far as the other inmates were concerned?

A When I arrived in Flossenberg I was just as hungry as other prisoners because I had to live on that what I was issued.

Q You mean by that, that generally the prisoners were hungry; is that the idea?

A Yes.

Q Did they appear to be undernourished?

A Yes.

PRESIDENT: Any further questions by members of the court?

(Lawriw - Court)

QUESTIONS BY COLONEL JACKSON:

Q During the three days you worked on the transport detail, who was the capo of that detail?

A I do not know his name.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

MR. MC KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: One question, sir.

RECROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q On what date was it you were kicked out of the barber shop?

A I can't say exactly.

Q What month and year?

A It was the year 1943, and it could have been the middle of August or the end of August.

Q And you were only there for three months, is that correct?

A In the barber shop?

Q No, in the stone quarry.

A I can't say exactly. It could have been three and a half months, or four months. I can't give you the date either because I did not have anything to do with that. It was three or four months before the year 1944--in January, 1944, I was sent to the detail, to the Outcamp Pottenstein.

PROSECUTION: No further questions.

(Lawriw - Recross)

PRESIDENT: Has the defense anything further as far as this witness is concerned?

MR. MC KAY: Nothing further.

LT. COL. SKIELVIG: I have one question.

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL SKIELVIG:

Q You have stated in testimony that Jakubith treated the prisoners well, that he permitted you during the cold period to build a fire so you could warm yourself. Do you know of any instance, whether of punishment or spite or any other reason, that he made prisoners work without their coats during the very cold periods of the year?

A Those were not orders given by him but given by the detail leader, that they had to work without coats.

Q Who was the detail leader?

A That I can't say; I don't know.

Q Did Jakubith know about it?

A About the detail leader?

Q Yes, about the detail leader making them work without their coats?

A I don't know that.

LT. COL. SKIELVIG: No further questions.

PRESIDENT: Further questions by members of the court? Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: Defense:

(Lavriv - Court)

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Can you tell the court whether the detail leader was a prisoner, or an SS man?

A The detail leader, the commando fuehrer, was an SS man.

PRESIDENT: Dr. Engelhorn, did you have something?

DR. ENGELHORN: I do not have a question, no, but I should like to request at a later date for this witness to return to the stand on behalf of the accused, Wodak, and he should not stay in the court room until he has been recalled.

PRESIDENT: The court will grant the request of Dr. Engelhorn as far as not permitting this particular witness to remain in the court room. Could you give the court any idea as to just when you would desire this particular witness to appear as a witness as far as one of your defendants is concerned? In other words, the court desires information in order to make a decision as to whether or not this witness should be held here or allowed to go to his home.

DR. ENGELHORN: It is rather impossible for me to give a definite time because during the past days it has been shown that the procedures take up quite some time. I should like to recall this witness at the time when I call other witnesses on behalf of the accused, Wodak.

(Lawriv - Redirect)

PRESIDENT: Well, the matter will be left up to Colonel Wilson then to decide just when this man will be allowed to return to his home.

DEFENSE COUNSEL: May it please the court, the only question there is I can't remember definitely where he comes from but my impression is he might as well go home subject to recall, this being a weekend. If I find that a fact on checking my records I would request the court's permiss on to let him go immediately.

PRESIDENT: The court will grant that request. At the same time, Dr.Engelhorn, the court wishes to assure you that the witness will be available at a future time.

The court understands defense rests as far as this particular witness is concerned for the time being?

MR. MC KAY: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will adjourn until nine o'clock Monday morning.

(Whereupon at 1650 hours the court adjourned until 0900 hours, 9 September 1946.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: Erste Anklage:

Particulars: Einzelheiten:

Second Charge: Zweite Anklage:

Particulars: Einzelheiten:

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at (Address of Court) on 194
in (Anschrift des Gerichtes) am

at
um Uhr stattfinden.

By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

2nd Copy

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG Pages 3266 - 333 5 incl.

Case No.

*Summary
*Intermediate Military Court.
*General

Place Dachau, Germany

Date 9 September 194 6

Prosecutor

Defence Counsel

Interpreter

Reporter

Members of Court

WITNESSES:
SCHUBERT, Max
ROEHNER, Edward
SAILER, Johann
JAEGER, Ernest

Accused Friedrich Becker, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES versus FRIEDRICH BUCHER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

9 SEPTEMBER 1946 0905 hours to 1705 hours
Pages 3266 - 3335 incl.

T E S T I M O N Y

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
SCHUBERT, Max	3266	3282	3287 3290	3288	3289
ROEHNER, Edward	3291	3304	3320 3328		3322
SAILER, Johann (Contd)			3328		
JAEGER, Ernest	3334				

CAMP DACHAU, GERMANY

9 SEPTEMBER, 1946

MORNING SESSION

(Whereupon the court reconvened at 0905 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present, all the personnel of defense are present, with the exception of Major Oedin and Mr. Hall, who are absent on business of the accused, all of the accused are present with the exception of Oswelt, Fors and Schreiber, who are confined in the hospital, and Olschewski, who is sick in the bunker. The named accused's interests are being taken care of by their counsel. Dr. Schmitz is also absent, consulting with his counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom?

PRESIDENT: Defense?

MR. McKAY: The next witness will be called on behalf of the accused numbers 27 and 44.

Call Max Schubert.

MAX SCHUBERT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name for the court?

A Max Schubert.

Q Where is your home, Mr. Schubert?

A Floss.

Q What is your present occupation, Mr. Schubert?

rk 42L-SMS-9/9-2

A Stone cutter and inscription cutter.

Q During the year of 1942 where were you employed?

A With the German Earth and Stone Works.

Q Mr. Schubert, you must speak up loud enough so that all the members of the court, all the accused and everybody in the courtroom can hear you.

A Yes.

Q At what place where you employed in 1942?

A With the German Earth and Stone Works in Flossenburg.

Q Did that have any connection with the concentration camp of Flossenburg?

A The inmates of the concentration camp were employed by the German Earth and Stone Works.

Q Will you explain to the court where the quarry was located in relation to the camp itself?

A The quarry was located about six hundred meters distant from the camp.

Q In what capacity did you work for the German Earth and tone Works in 1942?

A I was working as a specialist in the construction department.

Q How long did you remain in Flossenburg in the year 1942?

A From June '42 until -- What was the question again?

Q When did you leave Flossenburg in the year 1942?

A In January.

Q What was the reason for your leaving at that time?

A I was drafted into the army.

Q Did you ever, subsequent to that date, return to Flossenburg?

A When I got back from the army in the year 1945.

Q In what capacity did you serve at that time?

A I was working with the construction department.

Ik L2L--Rt-S/c-3

Q Where was your place of employment at that time?

A In the administrative building.

Q After you had returned to Flossenburg were there any changes, any difference in the quarry setup than had been before?

A Earlier there had only been quarry work there and when I got back there was armament work going on.

Q Will you explain to the court just where this armament work was going on when you returned?

A The halls which had earlier been used for stone cutting had been rebuilt to some extent and in these halls parts for airplanes were manufactured.

Q In the performance of your duties did you ever have any occasion to be in the area of the Messerschmitt factory in the stone quarry?

A Yes.

Q Did you ever come in contact with a prisoner by the name of Raymond Maurer while you were in Flossenburg?

A I saw him.

Q Where did you see him?

A In the area of the wood courtyard.

Q Did the prisoner Maurer have any kind of a special position at the time that you knew him?

A He was capo of the wood courtyard.

Q Will you explain what you mean when you say he was capo of the wood courtyard?

A There were eight or ten men working in the wood courtyard as workers and he had them under his work detail.

Q Will you describe for the court briefly just what the detail that worked under Maurer did in the wood courtyard?

A Trunks of trees were delivered into the wood courtyard and

(Schubert-Direct)

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they were cut up into small pieces for fuel wood and the coal which was to be used for heating the halls was delivered into the same courtyard and he had to store it there and supervise and inspect it.

Q Will you just describe his duties as far as supervision of the coal and wood is concerned?

A The wood courtyard was surrounded with ordinary wire. His first duty consisted of seeing to it that nothing was stolen from this area and in the winter he had the job of administering the fuel and coal.

Q During the time that you were in Flensemburg in the year 1944 did you ever have an opportunity to observe the prisoner Maurer working with his detail of men?

A Yes.

Q Did you observe how Maurer treated the prisoners who worked under him?

A I heard him scolding a number of times when I was walking by.

Q Will you just describe for the court the things that you saw with regard to Maurer's treatment of the prisoners who worked under him?

A Whenever anyone was discovered as a person who had stolen fuel, wood or coal, he scolded him about it and he chased anyone away who wanted to get inside this area.

Q Did you observe any other action upon the part of Maurer in the treatment of his prisoners who worked under him?

A No.

Q Can you give the court any idea of how often you would see Maurer working with his detail in the course of a day?

A Once or twice.

Q And over what period of time did you know Maurer after you returned to Flensenburg in 1944?

A As far as I know he had his work detail the whole year.

Q How long did you remain in Flossenburg yourself the second time?

A I was there from July 1944 until the end.

Q Can you tell the court whether Maurer was present all during that time?

A I can't say that.

Q Do you think you could recognise Maurer if you saw him again?

A Yes.

Q Will you look at the men seated in the dock behind me and see if you can identify the man you knew as Maurer?

PRESIDENT: Caution the witness to stand right up, to walk right down in front of the defense table.

(Whereupon the interpreter did as directed.)

THE WITNESS: I can't recognise him.

THE PRESIDENT: Just take plenty of time.

THE WITNESS: Here. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused number 27 as Maurer. The witness is also being called on behalf of another accused who is being represented by Colonel Nilsen.

QUESTIONS BY DEFENSE COUNSEL:

DEFENSE COUNSEL: I will examine this witness on behalf of the accused Schubert.

Q While you were in Flossenburg were you acquainted with a man by the name of Alois Schubert?

A Yes.

Q Is this man any relation to you?

A No.

Q Were you acquainted with him otherwise than in Flossenburg?

424-SRH-9/9-6

A Yes.

Q Can you speak a little louder please so that they can hear you back here?

A Yes.

Q What was Schubert's position in Flossenburg when you first knew him?

A I learned to know him for the first time in the specialist school.

Q Where was that?

A In Friedeburg.

Q What sort of specialist school?

A That was a specialist school for the granite industry.

Q Can you speak a little louder, please? When was it that you knew him there?

A In the year 1926 or '27.

Q What was he doing there?

A He was a student.

Q Student of this granite working school, is that right?

A Yes.

Q When did you first know him in Flossenburg?

A In the fall of the year 1941.

Q Tell us, please, if you know, what he was doing in 1942.

A In 1942 I was drafted.

Q You testified, I believe, that you were in Flossenburg in January of 1942.

A In January, 1942 I was drafted.

Q Were you in Flossenburg any part of the month of January '42?

A I was there for about ten days. The middle of January I was drafted.

Q Did you see Schubert at all during those first ten days of January 1942?

A Yes.

Q What was he doing then, so far as you knew?

A He was a stone technician. He did the technical work for the quarry.

Q Do you know if he had anything to do with the people working in the quarry at that time?

A Yes, as a technician he had to go into the quarry.

Q What were his duties there, so far as you knew?

A He had to check and supervise the finished products as far as their accuracy was concerned.

Q Do you know if he had any control over the prisoners working there at that time?

PROSECUTION: I object to counsel leading the witness, may it please the court.

PRESIDENT: Objection sustained.

QUESTIONS BY DEFENSE COUNSEL:

Q You have testified, I believe, that there was a quarry in the concentration camp?

A Yes, the quarry belonged to the camp.

Q Who worked in it?

A The inmates of the concentration camp.

Q Who had control over the inmates of the camp as they worked in it?

A The concentration camp, the camp.

Q Well, what do you mean by "the camp"?

A The concentration camp.

Q The officials of the camp?

A Yes.

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Q Was Schubert an official of the camp?

A No.

Q You have testified you were drafted into the army in January '42 and that you came back to Flossenburg in July '44. Did you see Schubert when you came back in July of '44?

A Yes.

Q What was he doing at that time?

A The armament had been built in and he was the work manager of the works.

Q Was the quarry still working them?

A Not very much, to a small extent.

Q Would you have any idea about how many were working in the quarry at that time?

A That could have been around 200 men.

Q Do you know about how many had been working in it in January of '42?

A In the whole works, seventeen to eighteen hundred men.

Q About how many years of experience have you had in the stone industry, quarry industry?

A I have continually been in the quarry industry since the year 1921..

Q Have you worked in various quarries throughout Germany?

A First in the Province of the Sudetenland and in the year 1936 I came to Flossenburg. There I worked for a private firm.

Q In January of '42, prisoners, I believe you testified, were employed in the quarry. Were there employees in the quarry also who were not prisoners?

A Yes.

Q What sort of work did these non-prisoner employees do as compared with the prisoners' work?

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A They had supervisory duties.

Q Would it be possible for you to make any comparison of the efficiency of the work done by the prisoners?

A As a rule, a prisoner who was doing stone cutting work would do eight to ten percent less than that of a civilian stone cutter. That is the entire production capacity.

PRESIDENT: The witness must speak right up so that everybody can hear and speak directly to the court and not to the interpreter.

THE WITNESS: That is, eight to ten percent less than the civilian employees put out.

Q You testified that you were away from Flossenburg during the year of 1942 except the first part of January but you also testified that you came back in '44. Now when you came back in '44, did you hear anything about the activities in the quarry during thatpart of '42 when you were away?

A You mean in regard to Schubert?

Q Yes.

A During my absence the armament works were built up.

Q Who was camp commandant in 1942 during the time you were there?

A I believe the camp commander was Kuenstler.

Q Do you know what, if any, relation he had to the quarry?

A The camp commander at that time didn't have anything to do with the quarry.

Q Do you know what the relation was subsequently between the camp commander and the quarry?

A When I came back from the army in '44 the commander of the camp Koegel was director of the works.

Q Did you ever hear why he was made director of the works?

A I have no idea.

Q In the quarry, so far as you know, were all the civilian

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stone masons skilled workers or did they have different levels of capability?

A They were specialists.

Q Were all of them skilled specialists?

A Yes.

Q Had they all the same degree of experience?

A No.

Q Could you describe the differences in the degrees of experience?

PROSECUTION: May it please the court, I object to that on the ground it is immaterial and irrelevant to the issues in this case.

PRESIDENT: Any remarks?

DEFENSE COUNSEL: It has some bearing to the case relative to the efficiency. That is all.

PRESIDENT: The objection is sustained.

QUESTIONS BY DEFENSE COUNSEL:

Q Were there any apprentices in the quarry?

A I didn't understand the question.

Q Were there any apprentices in the quarry?

A The civilian apprentices were outside the quarry.

Q Coming now to 1944, when you came back, what did you see of Schubert in the camp after your return in July of 1944?

A Schubert was work manager of the entire works.

Q For the entire works you mean, the plane factory?

A Over the airplane part and over the entire works.

Q Can you tell the court anything about his relation to prisoners working there?

A The commando leader, the work detail leader, was the only one who had disciplinary powers. The inmates of the camp marched into the camp to do their work and when their work was finished they

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marched back to the camp again. SS people were placed around to act as supervisors, inspectors.

Q What was Schubert's part in this picture?

A He had the supervision and the management of the entire business and the civilians were under his orders.

Q Do you know anything about his treatment of prisoners?

A I didn't observe anything in regard to that.

Q Did you hear anything about it?

A I never heard anything bad about it.

Q Do you know anything about the food situation in the plant?

A Food came from the camp into the factory. It came in buckets that were locked up.

Q Was it sufficient in quantity, or not?

A I didn't see how the food was distributed.

Q Do you know whether Schubert had anything to do with that or not?

A No, that was a matter of the camp.

Q What do you mean by saying "that was a matter of the camp"?

A The food was cooked in the camp and came into the quarry in these closed buckets and was distributed there to the corresponding divisions.

Q How about the food in the Messerschmitt factory?

A What was the question?

(Whereupon the interpreter repeated the question.)

A That was the same. There was no distinction between the quarry and the Messerschmitt works.

Q Did you ever know a man by the name of Scheungrad?

A Yes.

Q Will you please tell the court what you know about him?

A Scheungrad was an SS man and worked in the warehouse.

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Q Did you ever observe his conduct?

PROSECUTION: Just a minute. I object to this as also being immaterial and irrelevant to the issues in this case at the present time. There is no connection between Schubert and Scheungrad. If he expects to connect it up I will withdraw my objection.

PRESIDENT: Colonel Wilson, just what connection has this individual with the material issues in this case?

DEFENSE COUNSEL: I expect, may it please the court, to prove quite a definite connection between Schubert and Scheungrad which I think will be creditable to Schubert.

PRESIDENT: The court will give you an opportunity to show that connection and in the meantime the objection of the prosecution will be held in abeyance.

PROSECUTION: Yes, sir.

PRESIDENT: Court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

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(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, all the personnel of the prosecution, all the personnel of the defense with the exception of Major Oeding and Mr. Hall who are absent on business for the accused, all the accused are present with the exception of Oswalt, Pinter and Schreiber who are confined in the hospital and Olschewski who is sick in the bunker. The interests of these accused are being taken care of by their counsel and Dr. Schmits is also absent being in conference with his counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the court room who expect to be called as witnesses they will please leave the court room.

MAX SCHUBERT, called as a witness by the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DEFENSE COUNSEL (Continuing):

Q Mr. Schubert, will you please tell the court what you know about any incident which involved Scheuengrad and Alois Schubert?

A Scheuengrad was working in the warehouse in the winter of 1944. I remember one case where Scheuengrad was drunken and threatened people who worked in the warehouse with his pistol. The incident was reported to work manager Schubert. Schubert put handcuffs on Scheuengrad together with another one and took him with his cart into the concentration camp.

Q What did he do with him there, if you know?

A I don't know that. For two or three weeks then he wasn't in to work any more.

Q Who wasn't in to work any more?

A Scheuengrad.

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Q Did you see this incident yourself?

A I saw Scheuengrad sitting in Schubert's car. They drove past me on the way to the camp.

Q Who was Scheuengrad threatening with his pistol?

A They were civilians and prisoners working in the warehouse. I wasn't present there myself.

Q I believe you testified that Koegel was director of the factory in 1944?

A Yes.

Q Do you know of any unusual occurrences involving Koegel and Schubert?

A As far as I could observe the relationship between the camp commander Koegel and work manager Schubert was not good.

Q Can you explain that to the court?

A Koegel made various inspections through the plant. I never heard him say a good word about the production.

Q Do you know if Schubert ever had anything to do with the billeting of incoming prisoners?

A In the camp -- in the concentration camp?

Q In the camp or anywhere?

A He didn't have any influence.

Q Well, did he ever have to get food cards for any of them?

A For the civilian employees they had to be reported in the community and he had to take care of quarters for the civilian employees.

Q Did he have to do anything about food for the benefit of incoming employees or prisoners?

A They had their ration cards and received their food in the canteen of the factory.

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Q Do you know anything about an incident involving six Jewish women who came into Flossenburg?

A Yes.

Q Please tell the court about it?

A It was in the spring of the year 1945. Five or six Jewish girls came in with a civilian. The civilian and the five or six Jewish girls came into the barracks area behind the Schlossberg, which was an area exclusively for civilians. One day Schubert was called into the main concentration camp. He returned from there, opened the door of my office and said to me that the commander of the camp had told him that he should buy himself a noose and hang himself on it. He said he asked him why and he said because he had arranged quarters for the six Jewish girls in the civilian area in back of Schlossberg.

Q Were these Jewish girls prisoners?

A I don't know that.

Q How often was food issued to prisoners in the Messerschmitt plant?

A In the morning, at noon and in the afternoon.

Q Was that in the plant?

A Yes.

Q Do you know whether they had any meals in their barracks or not?

A Some ate out there and some ate at their place of work.

Q Are you familiar with the method of reporting misconduct on the part of prisoners which was followed in the Messerschmitt plant?

A Misdemeanors should be reported. Every civilian knew about that.

Q Were the civilians instructed as to their relations with the prisoners?

A Yes.

Q What were those instructions?

A They weren't allowed to talk to any prisoner. They weren't allowed to let any clothes lie around. They weren't allowed to make any deals.

Q You spoke a moment ago about reports of misconduct. What channel did those reports follow?

A They could only go to the leader of the work detail at the time.

Q What was the work of the work detail?

A There were various ones.

Q Did Schubert have any relation to that?

A No.

DEFENSE COUNSEL: You may cross-examine.

PRESIDENT: Cross-examination?

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Mr. Schubert, Alois Schubert was a member of the SS was he not, when you knew him in 1944?

A Yes.

Q What rank did he hold in the SS?

A When I got back from the army he was engaged as a specialist with the rank of 1st Lieutenant.

Q And these detail leaders who were in charge of the prisoners were non-commissioned officers of the SS were they not?

A They were SS people from the camp.

Q And the camp commandant was a Lt. Colonel, was he not?

A That was a Lt. Colonel.

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So that Schubert was one of the officers of the Camp Flossenburg was he not?

A No he didn't have anything to do with the camp.

Q He was subject to the control of Koegel was he not?

A Koegel was the director of the camp.

Q And Koegel was a Lt. Colonel in the SS and Schubert, Alois, was a 1st Lt. in the SS was he not?

A As far as I know he was specialist leader, department leader.

Q Will you answer my question?

DEFENSE COUNSEL: I submit that he has answered the question.

PRESIDENT: Please read the question and answer.

(Thereupon the question and answer was read by the reporter.)

PRESIDENT: The witness will answer the question.

A Schubert was specialist leader.

Q And he was also an officer of the SS who was junior to the camp commander Koegel is that not true?

MR. MCKAY: The question is objected to for the reason that it calls for a conclusion that this witness has shown no ability to answer. He was a civilian employee of the Messerschmitt and stone quarry.

PROSECUTION: It was assumed, may it please the court, that he knew enough about it to say that Schubert was not an official of the camp itself, the concentration camp, and the defense also assumed that he knew enough about it to testify as to the responsibilities of Schubert in the quarry.

PRESIDENT: Objection overruled. Proceed.

A Schubert was specialist leader.

Q And he was also an SS officer who was junior in rank to the camp commander Koegel was he not?

A I don't know if he were his junior as far as the military is concerned.

Q And you don't know whether or not he was an official of Flossenburg either do you?

A No.

Q Now you stated that Schubert had supervisory duties, is that correct?

A Yes.

Q And he determined did he not the quantity of work that prisoners would turn out?

A Either the armament work detail or Messerschmit determined the amount of work which was done in the factory as far as I know.

Q And it was Schubert's duty to see that the quota was met was it not?

A Yes, and that also was up to the commander of the camp as the director.

Q And Schubert functioned under the commander of the camp to carry out his wishes and duties did he not?

A Yes.

Q Now you spoke with respect to food that was distributed there among the prisoners. Did you ever have occasion to see this food that the prisoners received?

A Yes.

Q Was that food good or bad?

A In the morning they got bread, either it had something smeared on it or else they had sausage and at noon the food was in kettles, you couldn't see it.

Q Did the prisoners get enough to eat there?

MR. McKAY: That calls for a conclusion of this witness who shows no qualification to present. He can only describe what he saw.

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PROSECUTION: That is all I'm asking, may it please the court, to tell what he saw there.

MR. McKAY: The question was, "Was the food sufficient?"

PROSECUTION: "Did they get enough to eat?"

PRESIDENT: Objection overruled.

A I can't say anything about the distribution of food because I never saw it. I only saw the kettles in which the noon-time meal was.

Q And where did you say you worked, please, sir?

A In the plant.

Q And in that plant you came in contact with the prisoners did you not?

A Yes.

Q And you saw their physical appearance did you not?

A Yes.

Q And you were able to ascertain whether or not they were strong and vigorous or whether they were weak were you not?

A Yes.

Q And in general what was the condition of those prisoners?

A There were weak ones and there were strong ones.

Q Well in general was there a greater number of weak prisoners or a greater number of strong prisoners?

A Mediocre is what I would say.

Q Did you observe from the appearance of the prisoners there whether or not they were suffering from hunger?

A No.

Q Then from observations that you made there the prisoners received enough to eat, is that correct?

A I couldn't determine what each individual got. I only saw the bread that was brought in in the morning for distribution.

(Schubert-Cross)

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Q And not based entirely on what you saw on the distribution of the food or what you failed to see there but based on your knowledge of the physical appearance of the prisoners and the amount of work they were able to turn out, is it a fact that they received enough food to eat?

A As far as that goes they had enough food.

Q Did you know Maurer at any time prior to July 1944?

A I can't say.

Q While Maurer was in charge of this wood court detail is it a fact that he carried a rubber hose around with him.

A I didn't see anything like that.

Q Did you see him carry any sort of stick around with him?

A It is possible that he had a stick here or there.

Q And when he would scold these prisoners is it a fact that he would use that stick in disciplining the prisoners?

A I never saw him beat anyone.

Q You've heard about it though, have you not?

A I didn't hear anything about it.

Q You never heard at any time that Maurer used a stick or rubber club to discipline the prisoners that worked under him?

A No.

Q Did you ever hear of anyone being beaten in Flossenburg?

MR. McKAY: It's objected to as being beyond the scope of cross-examination.

PROSECUTION: May it please the court, I'm trying to examine this witness to ascertain the extent to which he has been able to hear about various things that took place there in Flossenburg and I submit that the answer to this question will certainly inform the court as to whether or not this man went around

Flossenburg with his eyes and his ears shut or whether he went around Flossenburg with his eyes and ears open and that is permissible on cross-examination.

MR. McKAY: If it please the court, there is not one scintilla of evidence in the direct testimony that this man ever visited the main camp of Flossenburg. His duties were in the Messerschmitt and stone quarry and I submit for that reason that the question is beyond the scope of cross-examination.

PROSECUTION: May it please the court, I'll withdraw that question. I think counsel is correct in that respect.

Q Now, Mr. Schubert, did you ever hear of anyone being beaten in the stone quarry or in the Messerschmitt plant?

A No.

Q Did you ever hear of anyone being beaten in the wood courtyard?

A No.

Q Did you ever see anyone being beaten in the Messerschmitt works or in the quarry?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Colonel Wilson?

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q May it please the court, I inadvertently omitted to ask this witness if he could identify the accused Schubert for the record. Would you recognize Alois Schubert if you were to see him today?

A Yes.

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Q Will you look over the men seated behind me and see if you can identify him as you point him out?

A (Indicated).

DEFENSE COUNSEL: Let the record show, may it please the court, that the witness has identified the accused wearing the No. 44 as Alois Schubert.

Q You testified that Alois Schubert was a specialist leader, I think the German word was "fachfuehrer". Can you explain to the court whether or not a fachfuehrer was a military — was an official having military function?

A I only know from the army where I served that a specialist leader didn't have any power of discipline.

DEFENSE COUNSEL: No further questions.

PRESIDENT: Further redirect, Mr. McKay?

MR. McKAY: No.

PRESIDENT: Recross?

RECROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Is it a fact, Mr. Schubert, that the only person in Flossenburg that had the power of discipline was the commander Koegel?

A I didn't have anything to do with the camp.

Q Were you in the SS?

A No.

Q So, as a matter of fact, you don't know then what a specialist leader in the SS, what powers he had do you?

A I understand a specialist leader as being the one who had the responsibility over the quarry and the Messerschmitt factory.

Q From whom do you get that idea?

A Because that's the way it was in the army. For instance, in the army a pay master took care of paying out money. He was a

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specialist leader.

Q But you don't know what duties and responsibilities that same man in the SS had do you.

A I can't maintain that.

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q You have stated that you saw no beatings in the Messerschmitt factory nor in the quarry, is that correct?

A I didn't see anything.

Q By that do you mean you saw no legal beatings?

A I didn't see any kind of beatings. I wasn't there all the time.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q Did I understand you to testify that you had been in the Wehrmacht from 1942 to 1944?

A Yes.

Q What rank did you have?

A Sergeant.

Q If you were a Sergeant and you received an order from a Lt. Colonel you would follow it out, wouldn't you?

A I had to carry it out.

Q If you received an order from a 1st Lieutenant you would carry it out, wouldn't you?

A Yes, from a 1st Lieutenant, yes.

Q Would the 1st Lieutenant carry out the order of a Lt. Colonel without asking any questions?

A Yes, he had to.

Q And also irrespective of whether that Lieutenant was a finance officer, or legal officer, or a line officer?

A A specialist leader in the army could give no order to the Sergeant.

Q I'm not talking about a Sergeant, I'm talking about a Lt. Colonel and a 1st Lieutenant.

A He had to carry out the order.

PRESIDENT: Further questions by members of the court? Redirect?.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q Do you know whether this rank which Schubert had was given to him simply due to his position as a specialist leader or was it actual rank?

A I don't know that.

Q Did he wear the same identical rank insignia as a 1st Lieutenant in the SS?

PROSECUTION: I object to that, may it please the court, on the ground that it is leading.

PRESIDENT: Objection sustained.

Q Will you describe in detail the rank insignia worn by a regular 1st Lieutenant in the SS?

A A 1st Lieutenant in the SS had three white spots and a stripe.

Q Please describe in detail the rank insignia worn by a specialist leader in the SS?

A A specialist leader had a different insignia on his shoulder-piece than an officer, a field officer. A specialist leader had a twisted cord.

Q And which of these insignias did Schubert wear?

A Schubert had three dots and a stripe on his collar and

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a shoulder-piece that was embroidered. The cord ran around the outside of it.

Q Was that the insignia of a specialist leader?

A Yes.

DEFENSE COUNSEL: No further questions.

PRESIDENT: Mr. McKay?

MR. McKAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court? Defense have anything further at all as far as the witness is concerned? The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Mr. McKay?

MR. McKAY: The next witness is being called on behalf of the accused No's. 14, 25, 15 and 27 at the present time. He may be recalled later for the accused 22 and 44.

EDWARD ROEHNER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court?

A Roehner, Edward.

Q And where do you live at the present time, Mr. Roehner?

A Flossenburg.

Q What is your present employment?

A Electric mechanic.

Q And where are you at present employed?

(Roehner-Direct)

A With the American Army at Flossenburg and with the UNRRA.

Q Mr. Rochner, were you ever a prisoner in Flossenburg Concentration Camp?

A From April 1942 until the end.

Q And what do you mean by the end?

A Or until around the 14th of April.

Q Of what year?

A '45.

Q Mr. Rochner, how did you happen to be a prisoner in Flossenburg?

A In 1938 I was with the army, I was supposed to go into the army and I refused to take the oath of allegiance and I also was involved in another misdemeanor.

Q During the time that you were in Flossenburg what details were you employed on?

A I was an electrician there.

Q Just where did you work as an electrician in Flossenburg?

A When I first got to Flossenburg I was apprentice at stone-cutters hall and in 1943 I came to the Messerschmitt plant.

Q How long did you continue to work in the Messerschmitt plant?

A I was employed there from the fall of 1943 until April 1945.

Q Will you describe briefly your duties as an electrician in the Messerschmitt factory during that period of time?

A We had to put in electrical appliances and make repairs.

Q Will you tell the court just where the Messerschmitt factory was located in relation to the camp itself.

A The Messerschmitt factory was inside the quarry.

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Q And how much distance was there between the quarry area where the Messerschmitt was located and the camp proper?

A Perhaps 400 meters.

Q During the time that you were working in the Messerschmitt factory did you ever come to know a fellow prisoner by the name of Raymond Maurer?

A Yes.

Q Will you explain to the court just what duties you observed Maurer perform in the Messerschmitt factory?

A Maurer was in charge of transport detail which had to transport material from one hall to the other.

Q Do you know how the prisoners were selected for that particular detail?

A Maurer was a German and because he could make himself understood better he had to do this work.

Q I don't think you understood me. Do you know how the prisoners who worked on that detail were selected to work on the detail?

A The prisoners were picked out for the quarry from the camp from the work commitment office in the camp.

Q Will you explain to the court just how much opportunity you had to observe this transport detail when it worked around the Messerschmitt factory?

A I saw the transport detail transporting different materials from one hall to the other.

Q Can you give the court an idea of how many times in a single day that you would have an opportunity to observe that detail at work?

A I saw it four or five times a day.

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Q During this time what position did Maurer have on that transport detail?

A Maurer was the foreman of the detail.

Q Did you have an opportunity to observe Maurer's conduct as a foreman in relation to the prisoners who worked on that detail?

A I never saw Maurer beat a prisoner in his detail.

Q Did you ever observe any other kind of action on the part of Maurer other than the beatings with regard to the detail?

A I never saw Maurer mistreat or beat a prisoner who worked in his detail.

Q Do you think that you could recognize Maurer if you saw him again?

A Certainly.

Q Will you look over at the men who are seated in the dock behind me and see if you can find the man you knew as Maurer?

A (Indicating) There he sits.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 27 as Maurer.

Q Mr. Koehner, during the time that you were working on this detail as an electrician in the Messerschmitt factory what was your own status?

A I myself was the foreman of the electricians.

Q And how many men did you have working under you?

A It all depended on the work, 7, 8, 10.

Q During the time that you were in Flossenburg did you ever become acquainted with a man by the name of Karl Gieselman?

A Gieselman had a block. I don't know the number of it.

Q Can you explain to the court what type of prisoners

lived in Gieselman's block?

A In Gieselman's block the greatest percentage of prisoners were juveniles.

Q Did you ever have occasion to visit Gieselman's block in which the juveniles lived?

A I often visited Gieselman in his block.

Q What was the occasion of those visits?

A In order to carry on a conversation.

Q During that time did you have an opportunity to observe how Gieselman treated the juvenile prisoners living in his block?

A I was able to determine that Gieselman was generally popular, well liked in his block.

Q What makes you say that Gieselman was popular in his block?

A Because I saw many prisoners with him there talking to him.

Q During the time that you would visit there will you describe what you saw as far as Gieselman's treatment of the prisoners was concerned?

A Rather often Gieselman would distribute extra food to the people in his block and often closed one eye in regard to things which actually were forbidden.

Q Were you ever present in Gieselman's block at the time when it was necessary for Gieselman to discipline any of the men who lived in his block?

PROSECUTION: I object to that, may it please the court, on the ground it is leading and suggestive, on the ground it assumes it was necessary for Gieselman to discipline prisoners. No evidence has been shown that it was necessary for Gieselman to discipline the prisoners.

PRESIDENT: The objection of the prosecution is sustained.

Q What was Gieselman's position with regard to the prisoners who lived in this block where the juveniles lived?

A I don't understand the question.

Q What was Gieselman's position with relation to the juvenile prisoners who lived in this block where you visited?

A Gieselman was the blockeldest and had to preserve order.

Q What do you mean by had to preserve order?

A He had to make sure that order and quiet was kept in the block, that the prisoners washed themselves.

Q Were you ever present in Gieselman's block when it was necessary for Gieselman to carry out his duties as blockeldest to discipline any of the prisoners who lived in his block?

PROSECUTION: Objected to, may it please the court, on the ground it's leading and suggestive and on the ground it is assumed that at some time it was necessary for him to discipline some of these prisoners and it's never been shown that it was.

PRESIDENT: Objection sustained.

Q Will you explain to the court just what Gieselman had to do with regard to the prisoners in order to maintain order in his block?

A Gieselman had to make sure that anyone who had to be delousedd went to the delousing place and that everyone washed himself and that the block was kept in an orderly state.

Q Did you ever observe Gieselman's actions with regard to prisoners in carrying out his duties as blockeldest ?

A I often heard that he scolded and shouted when someone refused to do what he was supposed to do in his block but I never heard that he ever beat anyone.

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Q Do you think that you could recognize Gieselman if you saw him again?

A Yes.

Q Will you look over the men who are sitting in the dock behind me and see if you can identify the man you know as Gieselman?

A The one with the glasses. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 14 as Gieselman.

Q Did you ever know a man by the name of Ginschel when you were in Flossenburg?

A Yes.

Q What duties did you observe Ginschel perform while you were in Flossenburg?

A Ginschel had the general cleaning up duties in Block 1.

Q Did you ever observe Ginschel when he was carrying out his duties with regard to block 1?

A Yes.

Q Will you describe what you saw Ginschel doing at that time?

A In the evening Ginschel distributed the surplus food to the other prisoners and cleaned up the dormitory.

Q Will you describe Ginschel's physical appearance as it was at that time to the court?

A Ginschel has only one arm.

Q Did you ever observe Ginschel when he performed any other duties than as orderly in block 1?

A I can't remember that he had any other activities.

Q Do you think that you could recognize Ginschel if you saw him again?

A Yes.

Q Will you look over the men who are sitting in the dock behind me and see if you can recognize the man you knew as Ginschel?

A (Indicating) The one down here with the red sweater.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 15 as Ginschel.

Q Did you ever know a man in Flossenburg by the name of Karl Mathoi?

A Yes.

Q And what duties did Karl Mathoi perform in Flossenburg when you knew him?

A Karl Mathoi was campeldest for several weeks and later he came to the hospital.

Q During the time that Karl Mathoi was campeldest did you have an opportunity to observe him performing his duties?

A Yes.

Q Did you observe how he treated prisoners while he was campeldest during that time?

A In general he didn't harm the prisoners at all except in cases where a prisoner had made himself guilty.

Q Would you describe any instances that you know of where you saw Mathoi having any trouble with prisoners?

A I saw on one occasion, it was evening, it was already dark, where a Pole or a Czech who had received some packages from home was overfallen, attacked.

Q And will you just describe what you mean by the Czech was overfallen or attacked?

A He was attacked by two people who wanted to take away his packages and those two who attacked him naturally had to be punished.

Q Where did this particular incident occur in the camp?

A In the camp?

Q Yes.

A I believe it was between block 1 and block 2.

Q Will you describe for the court where the post office where prisoners received packages was located?

A The post office was in block 1.

Q Did you ever observe any other occurrence in which you observed Mathoi treating prisoners differently than he normally did?

A Besides that I never saw him beat anyone. He sometimes scolded but I never saw him hurt anyone else.

Q Will you explain to the court, Mr. Roehner, just what would have happened to a prisoner in the event that Mathoi, as campeldest, had turned in a report on that prisoner?

A If Mathoi had turned in a prisoner, reported him and accused him of making -- of attacking someone with intent to rob the parties concerned he would have eventually been punished.

Q What do you mean he eventually would have been punished?

A He would certainly have been punished more severely than he actually was.

Q Did you ever have occasion to know Karl Mathoi after he had gone to the hospital to work?

A Yes.

Q Will you explain the nature of that acquaintance after Mathoi had been in the hospital?

A I myself was lying in the hospital for several weeks and I can make no complaint about the treatment and the care he gave me.

PRESIDENT: The court will adjourn until one-thirty this afternoon.

(Whereupon the court recessed at 1200 hours.)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused; and all the accused are present with the exception of Oswalt, Lehmann, and Schreiber, who are sick in the hospital and Olschewski, who is sick in the bunker. The interests of those men are being taken care of by their counsel and Doctor Schmitz is also absent consulting with his counsel.

The witness is reminded that he is still under oath, and if there are any spectators in the courtroom who expect to be called as witnesses in this case, they are asked to please leave the courtroom.

PRESIDENT: Mr. McKay, continuation of direct examination.

DIRECT EXAMINATION CONTINUED

QUESTIONS BY MR. MCKAY:

Q This morning, before the recess, you told me that Karl Mathoi when he was in the hospital treated the patients well. Will you describe to the court what you mean by that?

A Mathoi treated the prisoners well in the hospital. I can't say anything more about that. Of course, he lacked the necessary medicaments to take care of them.

Q Well when you use the words, "treated the prisoners well" what do you have in mind?

A In the evening when patients were in pain, he would give them pills which would kill the pain, pills that had not been ordered by the doctor.

Q How long were you a patient in the hospital?

A Four weeks.

Q Do you think that you could recognise Karl Mathoi if saw him again?

A Yes.

Q Will you look at the other wall a minute. Now, will you look at the men who are seated in the dock behind me and see if you recognise the man you know as Karl Mathoi.

A The fourth man in that row up there, with the brown jacket (indicating).

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 25 as Karl Mathoi.

Q. Do you know how long Karl Mathoi remained in the hospital?

A I can't say exactly how long he stayed in the hospital.

Q What position, if any, did Mathoi hold in the hospital while you were there?

A As far as I can remember, he was the hospital foreman.

MR. MCKAY: That's all.

PRESIDENT: Any further direct examination? Doctor Engelhorn.

QUESTIONS BY DOCTOR ENGELHORN:

DOCTOR ENGELHORN: I am examining on behalf of the accused Wolf and Becker, Friedrich.

Q During your stay in the camp of Flossenburg, did you get acquainted with a man by the name of Wolf?

A Yes.

Q In what capacity did you know him?

A Wolf was in the stone quarry for a short period and then later on was in the arrest.

Q Would you recognize Wolf?

A Yes.

Q Look over the defendants and see if you can recognize Wolf.

A The second man in front of the window (indicating).

DR. KNOELHORN: Let the record show that the witness identified No. 51 as Wolf.

Q Please tell the court how the accused Wolf conducted himself.

A Although the camp SS was hated, Wolf was one of the few who was well liked by prisoners and was good to them. I never heard about his beating prisoners or making reports about them. Wolf told me several times that he would rather be on the front lines than do his duty in the arrest building. Wolf in general ingratiated with the prisoners.

Q How did Wolf act whenever he found out that a prisoner infringed a law or regulation?

A If Wolf noticed anything done by any prisoners, any violation, he looked the other way and acted as if he had not seen it.

Q Is anything known to you about the relationship between Wolf and his superiors?

A Wolf talked very badly about his superiors, mainly about the adjutant.

Q Do you know what reason there was for that?

A The adjutant could not use a man, and could not stand a man who was good to the prisoners.

Q Did you know a man by the name of Becker, Friedrich, in camp?

A I knew a Becker, Friedrich, but I did not have anything to do with him.

Q Can you state anything about the treatment of prisoners by Becker, Friedrich?

A Becker was the labor commitment leader and, if possible, tried to fill the wishes of the prisoners. If someone wanted to leave Flossenburg or go on a transport, he would go and tell Becker about it and Becker would see to it that the man would be transferred.

Q Did you see or hear whether Becker beat prisoners or not?

A I can't give any hearsay testimony. I can only state that I did not see him beat prisoners.

DR. KNOELHOEN: Thank you.

PRESIDENT: The court has noticed, Doctor, that no effort was made on your part to have the witness identify the accused Becker.

Q Would you recognize Becker?

A Yes.

Q See if he is among the men who are sitting here.

A There he is (indicating).

DR. KNOELHOEN: Let the record reflect that the witness recognized No. 1 as Becker, Friedrich.

PRESIDENT: Any further direct examination? Colonel Wilson.

COLONEL WILSON: I want to examine him on behalf of the accused Blomberg.

QUESTIONS BY COLONEL WILSON:

Q Were you acquainted with Blomberg in camp?

A I did not know him personally; I only knew that he had the political department.

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Q Did you know how he treated prisoners?

A I never heard anything about him.

COLONEL WILSON: No further questions.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q What nationality are you please, sir?

A German.

Q Now, you mentioned this morning that you were sent to the concentration camp because of a misdemeanor. What was that misdemeanor?

MR. MOKAY: That is objected to as an improper question. He can ask whether he was convicted of a misdemeanor, but he is not entitled to go into the nature of the offense, itself.

PROSECUTION: May it please the court, this man has testified that he was sent there because of a misdemeanor. I forget his exact language, but it was something that dealt with failing to take an oath, if I am not mistaken. Now, he brought up the subject of whether or not it was a misdemeanor, or what it was, and I want to find out if it was a misdemeanor - maybe it wasn't one. He has already stated that he was sent there as a result of it. He has no right to go into a transaction partially and then try to exclude me from finding out the balance of the transaction.

PRESIDENT: Objection overruled.

A I can't remember having refused to take an oath when I came in this morning.

Q I didn't ask you that. My question to you is this, Mr. Roehmer: What was this misdemeanor that you were sent to Flossenburg for?

A I stated this morning that I had committed a penal deed while I was serving in the Wehrmacht and after having served my time,

Was sent to Flossenburg.

Q And what was that penal deed?

A Is that absolutely necessary?

PROSECUTION: Well, may it please the court, I don't care to embarrass the witness. It might be proper at this time for the witness to be instructed that he is not required to answer any question which is calculated to embarrass him or which is, of course, not directly connected with the issues of this case.

PRESIDENT: The court at this time feels it necessary to advise the witness that, if any question is asked that might tend to incriminate him, that he can request the court's permission not to answer. Do you care to tell the court what the penal deed was that you committed?

A I refused the oath of allegiance and I falsified a document.

Q Were you convicted of perjury?

MR. MOKAY: That is objected to as an improper question. If you have any evidence of that nature, you have a right to present it in the proper way. This is like asking a man if he has ever been convicted of a rape. That is improper.

PROSECUTION: The proper way is to first ask him if he was convicted; if he answers yes, then it is not necessary to go any further; if he answers no and the answer is false, then you produce the records to the court. That is set out in the manual and it is very simple. While that is not binding, it is advisory and I submit that it is proper procedure.

PRESIDENT: Objection overruled.

A Because of perjury and AWOL.

PROSECUTION: I move to exclude the entire testimony of this witness, may it please the court, on the grounds that his testimony is incompetent.

DR. HOKAL: If it please the court, the weight and credibility of any witness, regardless of what his background may be, is a decision for the court and not for the prosecution. We are conscious of the fact that the men and women who are coming before this court to testify have been governed by the Nazi Reich, which we now seek to try as war criminals, and we cannot assume such an inconsistent position. It's either one way or the other. If this man has been convicted by the Nazi system, then this court can give it whatever consideration it is entitled to. And I object to counsel trying to use that sort of thing to embarrass and intimidate witnesses who have come before this court for the defense.

PROSECUTION: May it please the court, in answer to that - excuse me.

PRESIDENT: Go ahead, Doctor.

DR. ENGELHOMN: The fact that this witness has been sentenced, as in this case, for perjury is of no importance at all for this trial. Nothing is being said against his credibility. There are many people who have been convicted who are people of high credibility and still are decent people. I cannot understand that witnesses are being questioned as to whether they have been convicted previously.

PRESIDENT: Doctor Wacker.

DOCTOR WACKER: I also have to object to counsel's motion because during the beginning of this trial, when Lt. Colonel Shaw was still prosecutor, the prosecution objected emphatically when the defense went into any previous sentences or convictions of prosecution witnesses. At that time, I wanted to go into that and go into a penal deed that had been committed by a witness, which was much more severe than the one being discussed

here. And I believe the same thing goes here now. What was impossible to do with prosecution witnesses should be impossible to do with defense witnesses.

PRESIDENT: The court feels it necessary to call the attention of the defense to the fact that the matter of failure of the witness to take an oath and the matter of the misdemeanor was brought out during the course of direct examination. The motion of the prosecutor is denied, but the court will give the testimony of this witness that weight which the court feels it is entitled to.

Q Mr. Roehmer, you were the electrician capo, were you not?

A Yes.

Q During what period of time did you observe Maurer in charge of the transport detail?

A During work hours.

Q And over what period of time did you observe him doing this during the work hours?

A '44 and '45.

Q And this transport detail worked in the quarry and in the Messerschmidt works, did it not?

A The detail only transported materials from one hole to the other.

Q How many transport details did they have in the quarry and Messerschmidt works?

A I don't know exactly about the stone quarry because I didn't bother about it. I only know about the one transport commando detail headed by Maurer.

Q Well, the Messerschmidt works and the holes were all located in the stone quarry, were they not?

A Yes.

Q And if there had been more than one transport detail there, you would have known about it, would you not?

MR. MCKAY: That is objected to as argumentative in that it seeks to discredit the testimony just given by the witness by rephrasing it in an improper form, and is not proper cross-examination in that it exceeds the scope of direct examination, for this witness shows that he has given no testimony that he has ever observed or been present in the stone quarry.

PROSECUTION: May it please the court, this witness has testified that the Messerschmidt works were in the stone quarry and he was there and he observed the transport detail. He stated that he saw him during his working hours during 1944, and the question is not argumentative in form. It does not assume any fact whatsoever and that is a rule which has been laid down by text-writers as to what constitutes an argumentative question. And as has been established, I did not have to ask the question in the same language nor do I have to ask two questions exactly alike in order to let this witness arrive at the conclusion I am trying to point out to this court.

PRESIDENT: Objection overruled.

A I stated this morning that when I arrived in camp, at first I was working in the stone quarry and was transferred to the Messerschmidt works in 1943, and anything that developed in the stone quarry from 1943 until the end I can't know.

Q Is it a fact that you never visited the stone quarry from 1943 on, until the end of the camp at Flossenburg?

A I went to the stone quarry for short periods whenever a crane had to be repaired.

Q And how frequently did the cranes have to be repaired?

A Perhaps every month a minor repair had to be made.

Q All right, at the time you were there in the quarry, did you see a transport detail working there?

A So many prisoners worked there that I could not distinguish between a transport detail or any other detail.

Q Well, is it a fact that prisoners who had committed violations of the rules of the camp were sent to the transport detail for disciplinary purposes?

MR. MCKAY: The question is objected to as improper cross-examination. On direct examination this witness disclosed that he did not know how prisoners were selected for that particular detail.

PROSECUTION: May it please the court, I think we are having again a repetition of the same kind of conduct we had before on the part of the German counsel. Counsel in stating the grounds of his objection is informing the witness of what answers to make with respect to the question that has been asked. As a matter of fact, he stated this morning the prisoners were selected by the work commitment office in camp for this detail, which is utterly inconsistent with the answer that Mr. McKay has now stated to the court and which has been translated into German.

COL. WILSON: I might also say it is an example of questions that are asked by the prosecution again and again and again in this trial in an effort to impress on the court something that the witness never says.

MR. MCKAY: May it please the court, the difficulty that arises here is simply this. This witness was originally called for a particular accused, Mr. Maurer. He has later been called for another accused. Now, the question is whether the prosecution must disclose who he is cross-examining against because I cannot be held responsible for the testimony that this witness may happen to give on behalf of other accused which is not particularly representative of accused that I particularly represent.

PROSECUTION: May it please the court, that question was asked by Mr. McKay on his examination and wasn't elicited by any other counsel sitting over at that table except Mr. McKay. And I have a perfect right to ascertain by my examination the truthfulness of this witness's statements on direct examination. I don't have to assume that they are true, and in view of what has transpired here already, I doubt it seriously and I think that I have a right to explore to the fullest the truthfulness of his statements.

MR. MCKAY: Well, I am sorry but I must disagree with the prosecution in that that question which he has particularly referred to was not asked by me, but by Doctor Engelhorn on behalf of the accused Becker, and not by me on behalf of anyone I represent.

PRESIDENT: If necessary, we will give the prosecution an opportunity to check the record to verify the matter. However, relative to the original objection of Mr. McKay, the objection is overruled. However, the court does not feel that there is any implication as far as Mr. McKay is concerned in the manner in which the objection was stated. The court understands that the prosecutor would like sufficient time to check the record to verify the matter. The court is referring to the matter under discussion at the present time as to just who originated this particular question.

PROSECUTION: The only useful purpose that could be accomplished, may it please the court, would be to show who was correct, Mr. McKay or myself. In view of the fact that the court has overruled the objection, I have no objection to proceeding with obtaining an answer to this question. However, during the recess I will check the record and I

will bring it before the court in order that the record may show who is correct in this matter.

PRESIDENT: Now, the court at the same time directs that both the prosecution and defense refrain from this matter of the personal element between the respective counsels, particularly as I say between the prosecution and defense. All right, proceed, Mr. Prosecutor.

PROSECUTION: Will you read the question.

(Whereupon the question was read by the reporter as follows:)

"Q Well, is it a fact that prisoners who had committed violations of the rules of the camp were sent to the transport detail for disciplinary purposes?"

A That was only the case in 1942.

Q And it did not exist in 1943 or 1944, is that correct?

A In 1943 and 1944 many who worked in the Messerschmidt factories volunteered to work in the stone quarry.

Q I'm talking about the transport detail.

A The transport detail was a detail which had to carry materials from one hole to the other.

Q And it is your testimony that there were no members of the transport detail in 1943 and 44 who had been sent to that detail for disciplinary purposes. Is that correct?

A I can't remember that.

Q How many men were on that transport detail when Maurer was the capo of it?

A All according to the work, maybe 40 or 50 men, and new arrivals worked during the daytime with this detail until they were assigned permanent work.

Q You testified this morning that you never saw Maurer beat or mistreat a prisoner who worked on his detail. Now, tell the court whether you ever saw Maurer mistreat or beat any other prisoners, whether they worked on his detail or not.

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MR. MCKAY: That question is objected to for the reason that it exceeds cross-examination - I mean for the reason that it exceeds the scope of direct examination.

PRESIDENT: Objection overruled.

A I never personally saw that Maurer beat or mistreated any one.

Q Did you ever hear of Maurer mistreating or beating any of the prisoners?

A I can't give any testimony as to hearsay; I can only testify to facts I saw and knew.

Q Well, I'm asking you for what you have heard?

PRESIDENT: The court thinks it necessary at the present time to explain to the witness that this court can receive hearsay testimony and give it such weight as the court sees fit.

A I heard that Maurer yelled and scolded prisoners, but if he had beaten someone, we would have heard about it.

Q Is it a fact that Maurer used to carry a rubber hose around with him?

A I didn't see Maurer run around with a rubber hose.

Q Did you ever hear of him running around with a rubber hose?

A You sometimes pick up a rubber hose or something else so that you have something in your hand.

Q And Maurer picked up this rubber hose and had it in his hand?

A If Maurer had had a rubber hose in his hand, it doesn't prove that he beat anyone.

Q I didn't ask for an argument. Please answer my question.

PRESIDENT: The witness will refrain from answers of that nature. Just answer the questions and that is all.

A Maurer sometimes had a rubber hose in his hand.

Q Come over to this chart please, sir. I show you a chart marked Prosecution Exhibit No. 5 and ask you to examine it and state whether you recognise it as being a plan of the Camp Flossenburg while you were there.

A Yes, that's Flossenburg.

Q All right, sir, I ask you to point out to the court the block that Gieselman was the block eldest of, please.

A It must be this block (indicating).

PROSECUTION: Let the record show that the witness has indicated a block bearing the number, 19, in red as the block on Prosecution Exhibit No. 5 that Gieselman was the block eldest of. Will you take your seat please.

Q Did you ever live in Block 19?

A No.

Q Now, how frequently did you visit this block that Gieselman was the block eldest of?

A Perhaps once or twice a week.

Q And over what period of time did those visits take place?

A Around '44.

Q During the entire year of 1944?

A Mainly toward the end of the year.

Q Well, approximately, how many times then did you go to that block?

A- As I said, about once or twice a week.

Q And how many weeks did you do that?

A I did that whenever I felt like going over to see him. That's when I went and visited with him.

Q And, approximately, how many times, in your best judgment, was that?

A Ten or twelve times.

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Q Now, during that time is it a fact that the people that you saw Gieselman talking with were the same on each occasion?

A Those were the people who lived in the block.

Q How many people lived in that block?

A I would give an estimate of about 300. I can't state any more exactly.

Q And you stated, I believe, this morning that when you saw Gieselman he was surrounded by these people with whom he was talking. Is that correct?

A Yes.

Q Approximately how many people were there talking with Gieselman?

A Often 10 or 15 men who were conversing with him.

Q And those were the same 10 or 15 men that you saw on the different occasions that you were there. Is that not so?

A It was not a definite circle. Whoever wanted to talk to him talked to him. It could have been different people, too, every time.

Q But you didn't see different people every time, did you?

A It's hard to give an answer to that, whether they were always the same people or different people.

Q Well, I am just asking you for your best judgment, Mr. Roehner.

A Those were mostly the people who were sitting near him at the table.

Q And at times that you were there, I believe you stated Gieselman distributed extra food. Is that correct?

A Yes, definitely. The surplus food he gave to the other people.

Q And from where did this surplus food come, if you know?

A Whenever anything was left over in the kitchen or in Block 1, he went over to Block 1 and asked the block eldest there if he could not have it.

Q Is it a fact that there was enough food left over that it could be distributed to Block 1 and Block 19?

A There was always a lot of surplus food in Block 1 because the people who lived there received packages from home and did not have to depend upon the camp food so much, and that was taken over and distributed in this block.

Q Now, was that food distributed to those 10 or 15 persons that Gieselman had been talking to?

A It was given to those people who cleaned the lavatory or cleaned up the front room or did other work around the block. And then if anything was left over, they took turns.

Q And you were there only 10 or 15 times. Is that correct?

A Yes, that could be correct - 10 to 12 times.

Q Now, is it a fact that Gieselman also used to carry a rubber hose?

A Almost every block had a rubber hose.

Q I didn't ask you that. Did you understand my question?

A Yes.

Q Will you please answer it?

A Surely Gieselman had a rubber hose also.

Q Do you know what he did with it?

A No.

Q Is it a fact that Gieselman also carried a leather belt around with him?

A If he had a leather belt, he surely did need it for his trousers.

Q Did you ever see Gieselman make any use of that leather belt other than for holding up his trousers?

A No.

Q Did you ever hear of Gieselman beating any prisoners?

A I did neither hear nor see that Gieselman beat anyone. I know that he scolded people if they didn't want to be deloused or didn't want to wash themselves right.

Q Did you ever have any personal dealings with Mathoi?

A What do you mean by personal dealings?

Q Did you ever come in contact with Mathoi in the course of your work as an electrician capo?

A As far as I can remember, Mathoi was working for 10 or 14 days in the stone quarry in the locksmith's shop.

Q Did you ever go around and visit with Mathoi?

A Yes.

Q Where were you born?

A In Olching, near Munich.

Q Do you know where Mathoi was born?

A As far as I can remember, in Fussen.

Q Did you know Mathoi before you went to Flossenburg?

MR. MOKAY: That is objected to as going beyond the scope of direct examination.

PROSECUTION: May it please the court, I have a right to show any interest or bias that this witness may have - friendship or enmity.

PRESIDENT: Objection overruled.

A I saw Mathoi for the first time, I believe, in 1938.

Q And that was before you went to Flossenburg. Is that correct?

A That was in the police headquarters in Munich.

Q Is it not a fact that you and Mathoi are old friends?

A How do you mean "old friends"? I said that I saw him in 1938.

Q Are you good friends?

A Yes, I got along good with him in camp.

Q I believe you stated you never saw Mathoi mistreat a prisoner except on one occasion. Is that correct?

A I related in this case this morning the reason why Mathoi punished this man, and I am convinced that if Mathoi had made a report to the camp management, those men would have been hanged for their offense.

PROSECUTION: Now, I move to strike the answer, may it please the court, on the grounds it is not responsive to the question. And I also ask the court to instruct the witness to please confine his answers to the questions that are propounded to him.

PRESIDENT: Motion sustained. Witness will refrain from making any unnecessary conclusions. He will be more particular about answering the question directly. If he doesn't know, he will say so.

Q Did you ever hear of Mathoi mistreating prisoners on occasions other than the one that you have described to the court?

A Except for this one case, I can't remember that he beat anyone.

PROSECUTION: I will ask the indulgence of the court to repeat that question because I believe that the translation in German was "see" instead of "hear". Would you read the question.

(Whereupon the question was read by the reporter.)

A No.

Q Is it a fact that you never heard that Mathoi killed a comrade with a pick in March, 1944?

MR. MCKAY: If it please the court, that's objected to as argumentative. It's arguing a fact that the witness just previously stated an answer to, and he is trying to take issue with that by trying to point out other facts which he claims to be true.

PROSECUTION: Absolutely, may it please the court, I'm trying to test the basis on which this man has given his answer and I have a perfect right to do that. There's nothing that I am assuming at all. I have a perfect right to ask him whether it is a fact that so and so is true.

PRESIDENT: Objection overruled.

A Had Mathoi killed someone or beaten someone to death with a pick, that would have been an unusual case in camp and we would have heard about it.

Q And you never did hear about it. Is that correct?

A I did not hear about it.

Q Well, did you ever hear of him beating a sick man so that he died during the month of March, 1945? Did you ever hear of that?

A As far as I can remember, Mathoi was working in the hospital in the year, 1945, and I very seldom went there and did not know what happened back there.

Q Well, I believe that you stated that you were confined there for four weeks as a patient, were you not?

A But that was in '44.

Q All right, in 1944 did you ever hear of the fact that Mathoi gave a Russian three injections, two of benzine and one of poison, so that he died?

A I did not hear about it and I do not know what he did in the hospital.

Q Well, you were there for four weeks, were you not?

MR. MCKAY: Just a minute. I object to that as argumentative in form. He is trying to argue with the witness all the time.

PRESIDENT: Objection overruled.

A When I was in the hospital, I was sick in bed and I could not know what was going on in the other rooms.

Q So, as a matter of fact, you don't know whether Mathoi treated the patients well or treated them badly. Is that not true?

A I can only talk about the room in which I was.

Q Was that a special room for Germans?

A The majority were Germans.

Q Well, did you know while you were there in the hospital that Mathoi performed operations of a minor character on prisoners?

A No.

Q You never heard that?

A And I didn't pay any attention to what the male nurses did.

Q Is it a fact that Wolf shot prisoners in the arrest building?

A I did not have any knowledge as to whether Wolf shot prisoners there.

Q And by that do you mean that you have never seen or heard of it. Is that correct?

A I could not see that because the arrest building was isolated.

Q So, as a matter of fact, you don't know how Wolf treated the prisoners after they were in the arrest bunker. Is that correct?

A I can't judge about the treatment that Wolf gave to the prisoners in the arrest building.

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Q How well did you know Friedrich Becker?

A I only knew that Friedrich Becker sent the different people to the work details and combined the transports.

Q Is it a fact that Friedrich Becker made you capo of the electricians?

A That is not correct. I believe it was the camp leader.

Q And who was he?

A If I remember right, it was the obersturmfuehrer, Lt. Colonel Berger - no, 1st Lieutenant or Captain Berger.

Q Do you know whether or not Friedrich Becker proposed that you be made a capo of the electricians?

A I don't know that.

PROSECUTION: No further questions, sir.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Did you observe the faces of the people who were standing around Gieselman at the time that you visited with him these 10 or 12 times?

A These were young Russians and young Poles. I don't know the particular ones.

Q Well, can you state whether the faces that you saw were the same on every occasion or were they different?

PROSECUTION: Now, I object, may it please the court, to counsel leading the witness.

MR. MCKAY: Please the court, this is redirect examination to clear up the statements brought out by the prosecution on cross-examination. I am limited to this cross-examination and I am entitled to clear it up.

PRESIDENT: Repeat the question.

(Whereupon the question was read by the reporter as follows:)

"Q Well, can you state whether the faces that you saw were the same on every occasion or were they different?"

PRESIDENT: Objection is sustained. Reword your question.

Q Will you explain to the court if you can whether you observed the same faces on each visit that you made, on the people who surrounded Gieselman on the times that you visited him these 10 or 15 times.

PROSECUTION: Now, I object to that, may it please the court on the grounds that that likewise is leading the witness.

PRESIDENT: Objection sustained.

Q Will you state to the court whether you know that all blocks in the camp were equipped with a rubber hose.

A I can't say exactly.

Q Now, you stated that you and Mathoi were old friends. Is that a friendship that has grown up because you were comrades together in the concentration camp?

PROSECUTION: Just a minute. I object to that, may it please the court, on the grounds that that is leading.

PRESIDENT: Objection sustained.

Q Will you explain what you mean when you say that you and Mathoi are old friends?

A I have mentioned that I had known him since '38 and that in '43 when he came to Flossenburg - in October of '43, I believe - I recognized him and from then on we had friendly relations.

Q Will you explain to the court whether this friendship is different from any other friendship you have had with a man in a concentration camp?

A I made friends with everybody. I didn't have any special friends.

MR. MCKAY: That's all.

PRESIDENT: Further redirect?

DR. ENGELHORN: One question on behalf of the accused Becker.

QUESTIONS BY DR. ENGELHORN:

Q Can you explain to the court what kind of institution the transport detail was?

A The transport had to go out to another camp. It was Becker's job to combine this transport.

Q That is not what I am talking about. I am referring to the transport detail in the stone quarry.

A Whether the transport detail was activated by Becker or not I don't know. I only know that so many people worked in the stone quarry and in the Messerschmidt and until they had a permanent place of work assigned to them, they worked with this detail. Everyone who was a member of this transport detail had the opportunity to volunteer to work in some hall.

Q Who selected the people for this transport detail?

A So far as I know, this was done by the orderly room of the stone quarry.

Q And who was in the orderly room of the stone quarry?

A Skomska, I believe.

DR. ENGELHORN: Thank you.

PRESIDENT: Any further redirect?

MR. MCKAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Now, you testified this morning that the reason that you were confined to Flossenburg was due to the fact that you had refused to take an oath and also due to a certain misdemeanor.

A Yes, the police sent me there.

(Roehmer-Court)

Q What was the nature of this oath that you refused to take?

A It was the German Army oath.

Q And you refused to take it?

A I refused to take that oath and was punished subsequently for being AWOL.

Q Do you desire to tell the court the reason you refused to take the oath?

A It might have been because I was a young, light-headed fellow at that time.

Q You were born right in Germany, weren't you?

A Yes.

Q You had your full German citizenship at that time, did you?

A Yes.

Q Well, what was the exact nature of this misdemeanor that you mentioned?

A It was forgery.

Q Now, you mentioned about being AWOL. What organization were you assigned to at that time?

A It was the infantry.

Q Where was your organization located when you went absent?

A At that time I was in Grafenwoehr.

Q What was the nature of the duty being performed by your particular organization at the time you went absent?

A We were in training.

Q You were not in combat or contact with the enemy at that time, the enemy of the German Reich?

A It was still peace time.

PRESIDENT: Any further questions by members of the court? The court will recess until 3:30.

(Whereupon at 1500 hours the court recessed.)

(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, all the personnel of the prosecution, and all the personnel of the defense with the exception of Major Keding and Mr. Hall, who are absent on business of the accused, are present. That all the accused are present with the exception of Oswalt and Fens who are sick in the hospital and Dr. Gehlitz and Keiling are conferring with counsel, the interests of the accused who are absent are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators who are present that expect to be called as witnesses in this case they are asked to leave.

EDY KOSHNAR, called as a witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PRESIDENT: Any further questions by any member of the Court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL SKIELVIG

Q Mr. Koshner, you have previously testified that a Pole or a Czech had received a package and was attacked by several other prisoners between blocks 1 and 2, is that correct?

A Yes.

Q What part did Mathoi play in this particular incident?

A Mathoi reported the incident and one or two men were punished because of this attack, through Mathoi.

Q Did Mathoi punish the men?

A As far as I can remember, yes.

Q How did he punish them?

A I don't know whether he had a stick or a rubber stick and punished them with it.

Q Was this beating authorized by higher headquarters?

A Incidents of this nature were punished by the camp elddsts because if he had told higher headquarters about it they would have been punished much more severely.

Q That is all.

PRESIDENT: Any further examination by the Court?

QUESTIONS BY LAW MEMBER:

Q I understood you to say that you were working for the Army and for UNRRA, which is correct?

A Until the day the troops left camp Flossenburg I worked with the Army and when UNRRA arrived I was taken over by them.

Q Are you working for UNRRA now or are you in an UNRRA camp or a DP or something?

A It is a former concentration camp.

Q What I want to know is, are you now in a displaced persons camp or are you working for UNRRA?

A That is one and the same thing.

Q You did not answer my question, are you employed or are you a DP?

A I am employed by UNRRA.

Q Are you receiving pay from UNRRA for your work?

A Yes.

Q In what capacity are you employed?

A Electrician.

Q You testified on direct examination that you refused to take an oath which caused your trouble and you were sent to a concentration camp for perjury, will you explain that?

A I have explained before that I was punished because I had forged some records and because of being ANCL.

Q Then were you convicted for forgery, perjury or both?

A I was not punished for perjury.

(Roehner-court)

Q Then when you testified here a while ago that you were convicted of perjury, you were in error, is that correct?

A There was no mention of my being punished for perjury.

MR. SACKER: I would like to explain this matter. The oath in question is the oath that had been rendered by all members of the Army which referred to allegiance to Hitler as the Commander in Chief. So that you cannot therefore speak of perjury in the common sense.

PROSECUTION: May it please the Court, I move to strike Dr. Sacker's statement as not being evidence before this Court. Not being under oath it is improper.

PRESIDENT: The motion is sustained.

QUESTIONS BY IAM MEMBER:

Q The record shows, I am sure, that in answer to a question by the prosecution you stated that you were convicted of perjury, were you correctly quoted, was the interpretation correct?

MR. MC KAY: May it please the Court, I think the interpreter misinterpreted the word for "perjury". The Court should have an opportunity for the assistance of Dr. Sacker to give us the correct German word for perjury.

PRESIDENT: Dr. Sacker will have that opportunity in the form of an objection to the translation, if he sees fit.

DR. ACKER: The explanation which I am about to give is not intended for the record. I would only like to avoid confusionin questions. There are two different types of oaths by German concepts. If a witness gives a false statement to an authority which has the right to accept oaths, that is called perjury. There is a different kind of oath, such as the one rendered by an official at the time he begins his office, or by a member of the armed forces when he begins his period of office and I mean these oaths, for example, which allegiance is sworn

such as the Weimar Constitution or to Adolf Hitler or now to the Military Jovern ent. If now, a member of the armed forces refuses to render such an oath, he will be punished. This has nothing to do with perjury as set down in the criminal code. I would like to add that the witness in his testimony talked about his having refused to render such an oath as is demanded of members of the armed forces and he never spoke about an act of perjury as it is understood in the criminal code.

LAW MEMBER: Read back my question.

(Thereupon the question was read by the reporter as follows:

"Q The record shows, I am sure, that in answer to a question by the prosecution you stated that you were convicted of perjury, were you correctly quoted, was the interpretation correct?")

INTERPRETER VELTE: I would like to ask a question at this point, may it please the Court, I still do not know how I am to translate the word "perjury" in this particular case, whether as perjury or a refusal to render an oath, as long as it is translated as perjury this confusion is going to exist.

LAW MEMBER: The Court wants to know whether he refused to take an oath or whether he committed perjury?

THE WITNESS: I did not commit perjury because I was at no time called as a witness.

LAW MEMBER: Do I understand that when the question of perjury came up you meant to convey to the court that you refused to take an oath? Is that the idea?

THE WITNESS: Yes. The oath of allegiance.

PRESIDENT: Any further questions by the Court?

QUESTIONS BY COLONEL JACKSON:

Q What oath did you refuse to take?

A. Like all others I would have to render the oath that is rendered by all members of the armed forces.

(Roehmer-court)

Q You have stated to the court, however, that you were in the Wehrmacht?

A For 14 days.

Q What papers did you forge?

A My furlough papers.

Q Did you ever take an oath that those papers were true?

A I did not have to render an oath in connection with those papers.

Q That is all.

PRESIDENT: Any further examination?

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you explain to the court the wording of this oath of allegiance which you refused to take. What were the words you refused to accept?

A It was the usual oath that had to be sworn to by members of the armed forces and which pertained to allegiance to Hitler and his commanders.

PRESIDENT: Any further examination on re-direct?

MR. MC KAY: I have nothing further.

PROSECUTION: No questions.

PRESIDENT: The witness will be excused.

MR. MC KAY: The defense calls Johann Sailer on behalf of the accused number 21. This witness has formerly testified in this case. Call Johann Sailer.

JOHANN SAILER, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PRESIDENT: The witness is reminded that he is still under oath.

Q You have stated to the court, however, that you were in the Wehrmacht?

A For 14 days.

Q What papers did you forge?

A My furlough papers.

Q Did you ever take an oath that these papers were true?

A I did not have to render an oath in connection with these papers.

Q That is all.

PRESIDENT: Any further examination?

REDIRECT EXAMINATION

QUESTIONS BY DR. MC FAY:

Q Will you explain to the court the wording of this oath of allegiance which you refused to take. What were the words you refused to accept?

A It was the usual oath that had to be sworn to by members of the armed forces and which pertained to allegiance to Hitler and his commanders.

PRESIDENT: Any further examination on re-direct?

DR. MC FAY: I have nothing further.

PROSECUTION: No questions.

PRESIDENT: The witness will be excused.

DR. MC FAY: The defense calls Johann Sailer on behalf of the accused number 21. This witness has formerly testified in this case. Call Johann Sailer.

JOHANN SAILER, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PRESIDENT: The witness is reminded that he is still under oath.

REDIRECT EXAMINATION

QUESTIONS BY MR. MC FAY:

Q Mr. Sailer, when you testified before this Court you stated that you had been employed in the stone quarry, is that correct?

A Yes.

Q Will you explain to the court just what equipment was used in the stone quarry by the prisoners to carry out their work?

A Yes.

Q Will you explain just what it was?

A Picks, shovels.

Q Anything else?

A Compressors, levers.

Q How were these compressors powered?

A The compressors furnished the air.

Q How was the air carried from the compressors to the machine itself?

A By a motor.

Q Will you describe to the Court just the exact means that the air was carried form the compressors down to the machine that was used by the prisoners in the stone quarry?

A By pipes. Then the pipes into hoses.

Q Will you describe to the court just what would be the type of hose that ran from the pipe to the machine?

A About three centimeters in diameters - it could also have been three and one half.

Q Do you know how much pressure was carried through those hoses to operate the machines?

A At least six atmospheres, at the most.

Q Will you explain to the court just how much experience you have had with regard to air machines and the like?

A I don't know what to say. When you push the button the air comes out of the machine.

Q How long have you worked in stone quarries?

A I have worked in a stone quarry since 1922.

Q How many different stone quarries have you worked in?

A I was employed by a firm for 17 years.

Q In connection with your work in stone quarries have you had any experience with handling compressors or machines?

A I have used them myself.

Q Will you explain to the court just what would happen if a tube bearing six atmospheres of pressure were put into a man's mouth?

PROSECUTION: Object to that, may it please the court, on the ground that it calls for a conclusion on the part of the witness and calls for testimony beyond the qualifications of this witness.

PRESIDENT: Objection overruled.

THE WITNESS: He would burst.

QUESTIONS BY MR. MC KAY:

Q Will you explain to the Court just where the rock was removed in the quarry #1 by the prisoners?

A With an electric crane?

Q Will you explain to the court how the rock was loosened first?

A With crow bars.

Q Now, will you explain to the court just how the rock was loosened with crow bars?

A Drilling machines were used in the big blocks of rock. These rocks were dynamited and then dragged up to one point with an electric crane.

Q Did you ever observe, during the time you were there in the stone quarry, any prisoners working with crow bars on the rocks?

A Yes.

(Sailer-redirect)

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Q Were there any precautions taken to protect those prisoners who were loosening the rocks?

A Nothing could happen.

Q What do you mean "nothing could happen"?

A The stones were worked on with crow bars and tipped to the front and nothing could happen.

Q Will you describe just where those stones were removed with regard to the physical surroundings of quarry #1, at the time?

A After dynamiting it along the slopes an inmate was tied with ropes and that man then used a crow bar to loosen the stones - he was secured with ropes.

Q To what were the ropes fastened to secure the prisoner who was using the crow bar?

A A hole was drilled higher up and there the ropes were fastened there and one or two other inmates got ahold of the ropes also.

Q Will you describe to the court what would happen after the prisoners used - were through with the job of loosening the stone with the crow bar?

A He was then pulled back.

Q By whom?

A By the two inmates. Mostly I was present myself.

Q Will you explain to the court the purpose of the rope tied ar und the prisoner's waist as he loosened the rock with the crow bar?

A So that he would not crash.

Q What do you mean by "crash"?

A Fall down.

Q You said that you worked for the same firm or private firm was that in the operation of a stone quarry?

A Yes.

Q Were people employed there to loosen rock and the like?

A Yes.

(Seiler-redirect)

Q Can you explain to the court whether the safety precautions you observed at Flossenburg were the same as those that you observed when you were working for a private firm?

A They were better.

Q What do you mean by "better"?

A The quarry was set up better.

Q Will you just explain to the court what you mean when you say the quarry was set up better?

A Because of the compressors and cranes which were present and the rails, the rocks were pulled up and put into the cars.

Q Were the safety precautions that you have described, in operation in the quarry at Flossenburg, prior to the time you left there?

A At that time there were no cranes in Flossenburg and everything was done by hand. I speak of former times.

Q What actual safety precautions were in operation at the time you left?

A I don't understand.

Q You stated that cranes were not there in former times, what do you mean by that?

A That everything was done by hand and that the rocks were unloaded by hand and by the use of crow bars.

Q When did these cranes come into actual use in Flossenburg?

A I think in 1938 or thereabouts.

Q Do you know whether that equipment was continued in use after you left the quarry?

A Yes.

Q Did you actually see that quarry use that equipment after you left the quarry?

A Yes.

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QUESTIONS BY DEFENSE COUNSEL:

Q I am examining this witness briefly on behalf of Schubert. Were you acquainted with Schubert?

A Yes.

Q Do you know what Schubert's relations were to the prisoners working in the quarry?

A Schubert was the work leader.

Q Do you know what control he had over the prisoners?

A No.

Q Do you know what, if anything, he had to do with the feeding of the prisoners?

A No.

DEFENSE COUNSEL: No further questions.

PRESIDENT: Any further redirect by the defense?

QUESTIONS BY MR. MC KAY:

Q When you worked in the quarry in 1945 who was in charge of the prisoners that worked in the quarry there?

A The detail leader.

Q Were there any others responsible -- persons under the commando leader in that quarry?

A Yes, a capo.

Q Who was the capo at the time?

A Pipl.

Q Do you know whether that was the man's true name or not?

A I never heard him called anything else.

Q Did you ever learn that man's true name?

A No.

Q Do you think you could recognize that man again if you saw him?

A Yes.

Q Will you look behind me at the men in the dock and see if you recognize the man you knew as Pipl?

A Yes.

Q Will you point him out?

A Here (indicating).

MR. MC MAY: Let the record show that this witness identified the cape in quarry #1 in 1945 whom he knew as Pipl, as the accused wearing the number 21.

PRESIDENT: I believe that you ought to indicate that he is actually referring to Jakobith.

MR. MC MAY: The witness did not refer to him as Jakobith. Let the record show that the accused wearing the number 21 is the accused by the name of Jakobith.

PRESIDENT: Cross examination.

MR. BURKOLTZ: No questions.

PRESIDENT: Any questions by any member of the Court? Apparently not. Do we have anything further as far as this witness is concerned?

MR. MC MAY: No, sir.

PRESIDENT: The witness is excused.

(Thereupon the witness was excused and withdrew from the courtroom.)

PRESIDENT: Do you have anything further at this time?

MR. MC MAY: I have three minutes before five.

PRESIDENT: I have four minutes. Proceed.

MR. MC MAY: The next witness will be called on behalf of the accused number 30. Call Ernest Jaeger.

ERNEST JAEGER, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MC MAY:

Q Will you state your name?

A Ernest Jaeger.

Q Where are you living at the present time?

A I do not have a definite address. At the present I am in the special camp.

Q Where are you living? Are you being held as a prisoner in the special camp?

A Yes.

Q If it please the Court, at this time I would like to advise the court that I have advised this man as to his rights against self incrimination and respectfully request the court that he be again advised of his rights before testifying further.

PRESIDENT: The Court at this time considers it necessary to warn you that if you are asked any question of an incriminating nature that you can request the court not to answer that particular question.

THE WITNESS: I can answer any question.

QUESTIONS BY MR. MC FAY:

Q Jaeger, were you ever a prisoner in Flossenburg of any of its out camps?

A No.

Q Did you ever know a man by the name of Walter Neyer?

A Yes.

Q Where did you become acquainted with Walter Neyer?

A I got to know Neye last year towards the middle of April in Landau on the Isar.

PRESIDENT: The court will adjourn at this time until 0900 o'clock tomorrow morning.

(Thereupon at 1705 hours the court adjourned.)

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden. By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges)
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

2nd Copy

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Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG PAGES 3336 - 3413 incl.

Case No. Prosecutor

*~~Summary~~
*~~Intermediate~~ Military Court. Defence Counsel
*General

Place Dachau, Germany Interpreter

Date 10 September 194 6 Reporter

~~Members of Court~~

WITNESSES:
JAEGER, Ernest
MATYN, Major Raphael
KALLEDEIT, Walter
KORBELIUS, Ottmar
NEYE, Walter Paul Adolf

Accused Friedrich Beckert, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

10 SEPTEMBER 1946 0900 hours to 1700 hours
Pages 3336 - 3413 incl.

T E S T I M O N Y

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
JAEGER, Ernest (contd)	3337 3356				
MATYN, Major Raphael	3350	3352	3352		3353
KALLENZIT, Walter	3357				3362
KORBELIUS, Ottmar	3363	3371	3373		3385
MEYE, Walter Paul Adolf	3386				

Fk 426-SRH-9/10-1

CAMP DACHAU, GERMANY

10 SEPTEMBER, 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused, all the accused are present, with the exception of Buddensieg, Olschewski, Pens and Schreiber, who are confined in the hospital and whose interests are being taken care of by their counsel, and Dr. Schmitz, who is conferring with his counsel.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom?

ERNST JARGER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

MR. McKAY: At this time, if it please the court, I have a witness who has come from some distance, a Mr. Korbelius, who for personal reasons would like to return to his home as soon as possible. I request that we have this witness step aside and that we call Mr. Korbelius to the stand so that we can complete his testimony as soon as possible.

PRESIDENT: What is the nature of the personal reasons stated by this witness?

MR. McKAY: This man has a child who is ill and is left with his wife and he would like to get home as soon as possible.

PRESIDENT: You mean by that the serious illness of a

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child?

MR. McKAY: He seems quite worried about it. I did not go into it in detail.

PRESIDENT: This court is not in the habit of paying particular attention to the whims of witnesses. If it is a case of serious illness, yes. In that case the court will be very glad to give consideration.

MR. McKAY: If the court will excuse me, I would like to talk to him a minute and find out.

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

MR. McKAY: Let the record show that the defense is ready to proceed with the witness now on the stand and that the witness Korbelius will remain available and will be used as quickly as possible.

PRESIDENT: Proceed.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q Mr. Jaeger, yesterday you told me that you became acquainted with Walter Naye in Camp Landau, is that correct?

A Yes, that's right.

Q Will you explain to the court how you and Walter Naye happened to be in Camp Landau?

A We drove down there together in April of the year before that from Leonberg. The camp was evacuated.

Q When you say "drove down there", you mean you came with him in a transport?

A Yes, with the transport. We went down to Camp Landau on the Isar River.

(Jaeger-Direct)

428-SR-9/10-3

Q Will you explain to the court the location of Camp Landau from the camp known as Ganacker?

A They were two different camps. Ganacker was an airport and Landau on the Isar is on an autobahn stretch.

Q. Can you give the court any idea of how much distance there was between the two camps?

A They were about five kilometers distant from each other.

Q Can you explain to the court whether people from Landau went to the airport at Ganacker to work?

A Yes, at first they were work details complete in themselves.

Q How long were you at Camp Landau with Walter Neye?

A I was with Walter Neye twenty-one days at Camp Landau on the Iger.

Q Will you explain to the court the conditions that existed at Camp Landau at that time?

MR. PERKOWITZ: If the court please, that is objected to as irrelevant. We are not concerned with what happened at Landau.

PRESIDENT: Are you going to endeavor to tie this matter up with the issues in the present case or definitely with the accused represented by you?

MR. McKAY: At the present time this witness is describing being with Walter Neye on the evacuation. It will later be disclosed that the witness who appeared against Walter Neye was also present at that time, that the incident which the witness related actually happened at Landau and not Ganacker.

PRESIDENT: Does the court understand that this was a transport going to Ganacker or from Ganacker?

MR. McKAY: This particular transport was leaving. It stayed in Landau some twenty-one days and the transport from

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Ganecker joined it about ten days after these two men had arrived th re.

PP SIDENT: Then the court understands that you are going into the credibility of one of the prosecution witnesses. Is that the issue

MR. McKAY: I am trying to show the true situation of the incident that happened which was related by a prosecution witness. I think there was some confusion in the mind of that witness.

PRESIDENT: The objection is overruled for the time being but if this matter is not tied up the court will give you an opportunity, Mr. Berkowitz, to voice an objection again or the court will consider a motion to strike.

Go ahead, Mr. McKay. The court wants to avoid the introduction of any extraneous material not connected with the main issues of this particular case or which are not definitely connected with any of the accused. Proceed.

MR. McKAY: If it please the court, so that a proper foundation may be laid I will withdraw my original question and try to lay the foundation.

PRESIDENT: Proceed.

QUESTIONS BY MR. McKAY:

Q Mr. Jaeger, will you tell the court the date upon which you and Walter Weyo arrived at Camp Landau?

A I can't give you the exact date any more. It was the middle of April.

Q Of what year?

A '45 of last year.

Q While you were at Camp Landau did any other transports join you to proceed with the evacuation?

A No.

Q Will you explain to the court whether you knew of a man by the name of Silverberg at Landau?

A I didn't know any Silverberg in Landau on the Isar by name.

Q After you arrived at Landau how long was it before you actually evacuated Landau?

A It was 21 days.

Q During that period of time were any of the prisoners who were working in Ganacker during that time from Camp Landau?

A Yes, the first three or four days there was no work at all for us to do. There wasn't anything to do the first few days. There wasn't any food to speak of. We arrived there eight days too early and the administration didn't want to give us any food.

Q During that time what was Walter Heye doing?

A One day Walter Heye was made block eldest of block 1 and I was made block eldest of block 5.

Q Do you know when Camp Ganacker was actually evacuated?

A Yes, in the last ten days Camp Ganacker came to us.

Q What do you mean by "in the last ten days Camp Ganacker came to us"

A Although Ganacker and Landau were both special camps, the food from Ganacker came to Landau on the Isar River.

Q How many prisoners came from Landau to Ganacker?

A There could have been around 200.

Q Do you know the nationalities of these people who came from Ganacker to Landau?

A No.

Q After these people had arrived from Camp Ganacker, will you explain to the court what the food situation in Landau was'

A The food situation during the twenty-one days when we were

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staying at Landau on the Isar was very very bad.

Q What do you mean by "very very bad"?

A At first they took care of the people in the air force and then those in the organization Todt, construction corporation.

Q Will you explain the quarters that you had to live in during these twenty-one days that you were in Camp Landau?

A In the twenty-one days we stayed in Landau on the Isar River, sleeping quarters were also very bad. They had a number of small barracks. There wasn't any straw there. There weren't any blankets, no straw and nothing to cook in, -- no cooking utensils. There wasn't anything there.

Q Did that condition continue after these people had arrived from Gunacker?

A Yes, it was the same, exactly the same.

Q Will you explain to the court just how food was obtained to feed these people after the transport had arrived from Gunacker?

A When the people arrived from Gunacker they were fed along with us.

PRESIDENT: Tell the witness to speak directly to the court.

(Whereupon the interpreter did as directed.)

THE WITNESS: When the people came from Gunacker they were fed along with us in the same kitchen.

QUESTION BY MR. McKAY:

Q Will you explain to the court where that food came from?

A We got potatoes, some meat, some bread and some butter from the air forces. We got it ourselves and used it to cook.

Q What do you mean when you say, "We got it ourselves."?

A On the airport itself there were potato storage bins and every morning Walter Heye and I went out and got five or six loads

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of potatoes.

Q Will you explain to the court just how much food was actually furnished for you by the personnel in charge of the evacuation?

A Eight men would get one loaf of bread a day to eat.

Q Did you get anything else

A At noon we got one liter of food and in the evening three-quarters of a liter of food.

Q You stated that Walter Meye drove out and got potatoes. Was that food in addition to what you were actually issued?

A Walter Meye got these potatoes every morning without permission.

Q When you say he drove out to get them, will you explain what he drove out to get them with?

A Every morning he would take a small wagon and take several prisoners along and say, "We are going to drive out there and get potatoes."

Q How long did this practice continue while you were at Camp Landau?

A This went on for around fifteen to twenty days.

Q Will you describe for the court the physical condition of the prisoners who were at Landau after the prisoners came from Camp Gensecker?

A The ones who joined us from Gensecker were worse off, in a worse physical condition than those of us who came to Landau from Lemberg.

Q Will you explain to the court just what happened among the prisoners at the time that food distribution was made after the prisoners arrived from Gensecker?

A When the prisoners came from Gensecker it was every man for himself. In the evening when they came from

(Jaeger-Direct)

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work and went into the kitchen to get some food they would take food away from each other.

Q Will you explain to the court any incident that occurred with Walter Neye when that would occur among the prisoners?

A Every evening there was a big fight in regard to the food. There weren't any eating utensils there and when the first work details arrived they had to take the food from the kitchen and disappear immediately from the block and when the second work detail came in they would try to take the food away from the first one before they left the block and in one evening eighty portions of food were missing.

Q What occurred at that time, if anything?

A Walter Neye went to the leader of the protective custody department and complained to him about it. The leader of the protective custody department beat him and said, "If you don't pay more attention to the food you are going to get beaten every night."

Q Did you actually witness this yourself?

A Yes.

Q Will you explain to the court what, if anything, Walter Neye did to protect the weaker prisoners when food distribution was made?

MR. BERKOWITZ: That is objected to, if the court please. It is a leading question.

PRESIDENT: Repeat the question, please.

(Whereupon the question was read by the reporter.)

MR. BERKOWITZ: It is also objected to as calling for a conclusion. The witness would not know what was in the mind of Neye. It evades the province of the court.

PRESIDENT: The objection is sustained. Rephrase the question.

QUESTIONS BY MR. McKAY:

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Q Mr. Jaeger, will you explain to the court what precautions were taken with regard to weaker prisoners at the time food distribution was made?

A The weak prisoners got more food than the others. Every morning, as I said, Walter Meye went out to the airport and would bring back four, five or six wagons full of potatoes and they were given out in the block.

Q Immediately prior to the time that you evacuated Landau did anything unusual occur with regard to Walter Meye and other prisoners at the time food was distributed?

A Yes. This is the way it was the last morning. The evening before we left a truck arrived with a ton load full of bread. Walter Meye and I took one hundred loaves of bread out of it and distributed it. The next morning word went out that everyone had to drop in line in the roll call square. There was a pile of bread like this (indicating) and each man got a half a loaf of bread and Walter Meye gave a sick man one loaf of bread extra and then a foreigner came and took the loaf of bread from the sick man again. I was standing six or seven meters away and after it happened I went to Walter Meye and said, "Look, that one over there took the bread away from this one." Then Walter Meye went over and got the party in question and gave him a few boxes on the ear.

Q Do you know the nationality of the prisoner that you saw Walter Meye give the box on the ear?

A I can't remember what nationality that was.

Q Will you describe to the court just what means Walter Meye used when he boxed this prisoner on the ear?

A Walter Meye took the prisoner aside and with his open hand gave him a few boxes on the ear, nothing more.

Q During the time that you were in Camp Landau, will you

twenty-one days?

A They had at least close to 600 guards there.

Q Will you explain to the court just how the prisoners acted during this period of twenty-one days among themselves?

MR. PERKOWITZ: If it please the court, that is objected to as irrelevant.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. McKAY:

Q During the time that you were with Walter Neye at Landau did you see any other occasions of beatings other than the one you have described?

A No, I never saw Walter Neye involved in another incident during the twhole twenty-one days I was there with him.

Q During that time did you have an opportunity to observe how Walter Neye treated the prisoners during that period of time?

A Yes, I saw that.

Q Just explain to the court how Walter Neye treated the prisoners during those twenty-one days?

A In block 1 Walter Neye had attended to and had done everything he could possibly do for the prisoners.

Q What do you mean by "had done everything he could possibly do for the prisoners"?

A Walter Neye took care of the food. He made sure that the prisoners got their bread and that they got potatoes and he let them cook the potatoes over the fire longer than was allowed.

Q Will you explain what you mean when you say that he allowed them to cook the potatoes over the fire longer than was allowed?

A The fires in the stoves had to be out at nine or nine-thirty at night.

explain to the court how many people actually died?

A Five to six prisoners died during the twenty-one days we were at Landau on the Isar.

Q Do you know what the cause of the death of those prisoners was?

A Three of the prisoners died through air attacks and the other prisoners died because they ate so many weeds that they burst.

Q Did you observe what color triangle Walter Neye wore at the time that you were with him at Landau?

A Walter Neye had a red triangle and he had a horizontal stripe across it because he was in the camp for the second time.

Q Will you explain to the court who had to maintain order among prisoners during the time that you were in Landau for twenty-one days?

MR. BERKOWITZ: If it please the court, I object to that. It calls for a conclusion on the part of the witness. We have had a lot of questions of this sort, -- "Who had to do this" and "Who had to do that?" There are too many unexplained factors, there are too many missing links in the record for this witness to answer a question of that sort. There are also too many undefined terms. What does the defense counsel mean by "had to"? What does he mean by"order"? What kind of order had to be maintained? The question is objected to in its present form.

PRESIDENT: The objection is overruled. Proceed.

THE WITNESS: In the camp the block eldests were responsible for order being kept in the particular blocks and in a work detail the capo was responsible.

QUESTIONS BY MR. McKAY:

Q Will you explain to the court just how many guards were present at Camp Landau during the time that you were there for these

twenty-one days?

A They had at least close to 600 guards there.

Q Will you explain to the court just how the prisoners acted during this period of twenty-one days among themselves?

MR. BERKOWITZ: If it please the court, that is objected to as irrelevant.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. McKAY:

Q During the time that you were with Walter Neye at Landau did you see any other occasions of beatings other than the one you have described?

A No, I never saw Walter Neye involved in another incident during the twhole twenty-one days I was there with him.

Q During that time did you have an opportunity to observe how Walter Neye treated the prisoners during that period of time?

A Yes, I saw that.

Q Just explain to the court how Walter Neye treated the prisoners during those twenty-one days?

A In block 1 Walter Neye had attended to and had done everything he could possibly do for the prisoners.

Q What do you mean by "had done everything he could possibly do for the prisoners"?

A Walter Neye took care of the food. He made sure that the prisoners got their bread and that they got potatoes and he let them cook the potatoes over the fire longer than was allowed.

Q Will you explain what you mean when you say that he allowed them to cook the potatoes over the fire longer than was allowed?

A The fires in the stoves had to be out at nine or nine-thirty at night.

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Q Will you explain to the court why this was necessary?

A Because every night there was an air attack and the fires had to be put out in the stoves.

Q Did you observe Walter Meye during the last three or four days prior to the time that you were at Camp Landau?

A Yes, in the block.

Q Will you explain to the court what Walter Meye was doing at that time?

A Walter Meye was making sure that the block was kept clean. He was going here and going there and making sure that all the duties were taken care of.

Q When did you actually leave Landau the last time?

A When we left Landau for the last time?

Q Yes.

A End of April.

Q How did you leave, -- by what method did you leave Camp Landau?

A Thursday morning everybody had to drop in line and at eight o'clock we marched away from the camp in rank and file.

Q Was there any method of transportation furnished for the prisoners at that time?

A No.

Q How long did you march after you left Camp Landau?

A The first day we marched close to forty kilometers. We marched through dirt roads only.

Q Was Walter Meye on that march with you?

A Yes.

Q How far did you get from Landau?

A We marched forty kilometers from Landau.

Q Will you explain just what, if anything, happened on that

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evacuation march?

A We didn't have any food under way and whenever we came to a small farm the peasant people would stand on the side of the roads and try to give us bread. Then the SS guards would come along and beat the people who tried to give us bread.

Q Where did you go to from Landau when you evacuated?

A We went across dirt roads exclusively and I don't know the name of the little village where we first spent the night.

Q Where did you arrive after you completed your evacuation?

A As I said, a little tiny village. I don't know the name of it any more today.

Q How long did you remain in this village?

A One night.

PRESIDENT: Court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

End tk 428
Cornett fls.

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If the court please, let the record show that all members of the court are present, all members of the prosecution except Colonel Denson who is absent on business for the prosecution, all members of the defense are present except Colonel Wilson, Major Oeding, and Mr. Hall who are absent on business of the defense, all the accused are present except Buddensieg, Olschewski, Oswalt, Pinter and Schreiber, who are in the hospital. Their interests are being taken care of by their counsel, and Dr. Schmitz is absent in conference with counsel. The witness is reminded that he is still under oath. If there are any witnesses in the court room who expect to testify they will please leave.

PRESIDENT: Mr. McKay, the court would like to know at the present time whether or not Landau was an outcamp of Flossenburg.

MR. McKAY: If it please the court, Landau and Ganacker were actually together. One is just across the river. The prisoners knew it as Landau but it was actually part of Ganacker. There were two details worked out of Ganacker, one on the airport and the other on the road and Landau was nearer the road than it was nearer the airport, but it was through Landau that the evacuation was made after the 1st of April. Several of the transports met there and proceeded on after the evacuation.

PRESIDENT: Those transports you speak about, were they transports from some of the outcamps of Flossenburg?

MR. McKAY: As I understand it the only actual trans ort that came from any of the outcamps was the one which Mr. Jaeger

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and Mr. Noye came on, the one from Ganacker itself, and there were other transports that joined them there.

PRESIDENT: Now the court desires to get down to materiality of certain evidence that has come before the court this morning. You can assure the court that Landau was one of the outcamps of Flossenburg?

MR. McKAY: If it please the court, in order to clear this up I request permission to call Major Matyn who has testified for the prosecution and who is acquainted with this situation. It is difficult for these witnesses because they do not know it in the same terms as it was set up in the camp administration.

PRESIDENT: In order to clear up this situation the court will grant your request. Call the Major in question.

MR. McKAY: The present witness is informed that he is to step outside for a few moments.

(Thereupon the witness Ernst Jaeger was excused and withdrew.)

MR. McKAY: We now call Major Matyn.

MAJOR RAPHAEL MATYN, formerly a witness for the prosecution, was called as a witness by the defense and being reminded that he was still under oath, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Major Matyn, you were a prisoner in Camp Ganacker?

A Yes.

Q During the time that you were a prisoner in Camp Ganacker, did you ever know of a camp Landau across the river from Ganacker?

A Never.

Q When Ganacker was evacuated were you present on the evacuation?

(Matyn-Direct.)

A No, I remained in the camp.

Q During the time that you were in Ganacker did you ever hear of Landau?

A Yes.

Q Will you explain to the court what you heard of Landau?

A Some days prisoners must go to Landau to work.

Q That is, prisoners from Ganacker?

A Yes, though it was not an outcamp of Ganacker.

Q How big a camp was Camp Landau?

A I don't know.

Q Do you know the purpose of Landau?

A I know the city but I never see the camp.

Q Can you give the court an idea where the Isar River is in relation to Ganacker

A About ten miles.

Q Do you know whether the prisoners in Ganacker performed any other detail than working on the airport?

A Yes.

Q What were those details?

A In Plattling.

Q Do you know whether Landau was an outcamp of Flossenburg?

A No.

Q You don't know, or it was not?

A It was not.

Q Do you know the way the evacuation took place from Ganacker, the route that was followed on the evacuation of Ganacker?

A As I said a few minutes ago I remained in the camp but I know I hear after that that the prisoners were coming to Landau.

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Q So that during the course of the evacuation the prisoners who came originally from Ganacker stopped for awhile in Camp Landau on the evacuation?

A I hear.

Q And do you know whether from Landau there were other transports joined the evacuation to proceed on?

A I don't know.

PRESIDENT: Does the prosecution desire to cross-examine this particular witness?

MR. BERKOWITZ: Yes.

PRESIDENT: Proceed.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Major, will you tell us when Ganacker was evacuated?

A The 26th or 27th.

Q What month and year?

A Four, '45.

Q And what is the last time you saw Neye in Ganacker?

A A few minutes before the evacuation.

Q On the 26th or 27th of April, 1945?

A Yes.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Did you ever see the present witness at Ganacker?

A No.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q How far were these two camps apart?

A I never see the Camp Landau but I know the city of Landau is about ten or fifteen miles from Ganacker..

Q Fifteen miles?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q Well then, Major, you are positive that Landau was not an outcamp of Ganacker?

A It's no outcamp of Ganacker..

Q You are satisfied also that Camp Landau was not an outcamp of Flossenburg?

A Landau was no outcamp of Flossenburg.

PRESIDENT: Further questions by members of the court? Apparently not. Mr. McKay? Thank you, Major.

(Whereupon the witness was excused.)

MR. McKAY: If it please the court, the materiality of the evidence that has been presented through the witness Jaeger is this, as far as the defense is concerned: When Ganacker was evacuated the prisoners went from Ganacker to Landau. Now the witness Silverberg who testified for the prosecution testified that in April, immediately prior to the last evacuation, the accused Naye beat a prisoner so severely that he died. The actual incident which the witness Silverberg referred to, from all that I can gather from interrogation of witnesses, occurred actually in Landau and not Ganacker itself. It occurred as a part of the evacuation itself. And as the Major has pointed out Camp Ganacker was actually the prisoners were evacuated first to Landau and proceeded from there and the charge as covered by the particulars includes the evacuation of the outcamp of Ganacker as well as the

A I heard mentioned a few times that Naye [illegible] prisoners as he had to treat them.

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EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q How far were these two camps apart?

A I never see the Camp Landau but I know the city of Landau is about ten or fifteen miles from Ganacker.

Q Fifteen miles?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q Well then, Major, you are positive that Landau was not an outcamp of Ganacker?

A It's no outcamp of Ganacker.

Q You are satisfied also that Camp Landau was not an outcamp of Flossenburg?

A Landau was no outcamp of Flossenburg.

PRESIDENT: Further questions by members of the court? Apparently not. Mr. McKay? Thank you, Major.

(Whereupon the witness was excused.)

MR. McKAY: If it please the court, the materiality of the evidence that has been presented through the witness Jaeger is this, as far as the defense is concerned: When Ganacker was evacuated the prisoners went from Ganacker to Landau. Now the witness Silverberg who testified for the prosecution testified that in April, immediately prior to the last evacuation, the accused Naye beat a prisoner so severely that he died. The actual incident which the witness Silverberg referred to, from all that I can gather from interrogation of witnesses, occurred actually in Landau and not Ganacker itself. It occurred as a part of the evacuation itself. And as the Major has pointed out Camp Ganacker was actually the prisoners were evacuated first to Landau and proceeded from there and the charge as covered by the particulars includes the evacuation of the outcamp of Ganacker as well as the

conduct in the camp itself. The specification, I think, is "at or near Flossenburg or its outcamps". Now Camp Landau, as the major has pointed out, was at least within ten or fifteen miles. He describes the town and the camp evidently was not in the town itself but actually nearby. For that reason it is contended by the defense that this evidence is material to the issues before this court.

MR. BERNITZ: If it please the court, this testimony was introduced to explain an incident that was related by the witness Silverberg. The examination of the record will show that it could hardly be the same incident. If I may be permitted to refer to the record, the witness was asked:

"Q Now, how did Neye treat the prisoners at Ganacker?"

And he went on to say:

"A He conducted himself very badly towards prisoners. At one time when the noon meal was handed out a prisoner came from the other side with a vessel. Neye saw him and beat him up with the handle of a spade."

That's not the same incident.

"....He beat him up so badly that the prisoner collapsed, fell to the ground. We took him to the hospital. The next morning he died."

And then the witness went on to say that he buried him and on cross-examination he said that he buried him at Ganacker. Since this witness has offered to explain that particular incident it certainly cannot refer to the same incident and I move that his testimony be stricken and I offer in addition to that motion the fact that Landau was not connected with the Flossenburg chain.

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1055 hours.)

(Argument)

(Jaeger-Direct-Cont.)

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(Whereupon the court was opened at 1110 hours.)

PRESIDENT: Court will come to order.

MR. PINTER: Let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson who is absent on business for the prosecution, all counsel for the defense are present with the exception of Colonel Wilson, Major Oeding and Mr. Hall who are absent on business of the accused, all of the accused are present except Buddensieg, Olschewski, Oswalt, Pinter and Schreiber who are in the hospital and whose interests are being protected by the counsel remaining and Dr. Schmitz who is conferring with his counsel. If there are any spectators in the court room who expect to be called as witnesses they will please leave the court room.

MR. McKAY: If the court please, at this time I would like to request that any ruling on Mr. Berkowitz's motion be withheld until we have an opportunity to hear the accused Neye testify who will link up this testimony with Silverberg and the incident in question.

MR. BERKOWITZ: If it please the court, I think the court is now in a position to rule. It has all the facts. If the defendant Neye has any other facts to produce the court may at that time hear them.

PRESIDENT: The motion of the prosecution is denied. The court at the same time will give the assistant prosecutor an opportunity to renew that motion at a later time. Proceed.

MR. McKAY: Call Mr. Jaeger back.

ERNST JAEGER, called as a witness by the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

prisoners as he had to break them.

(Jaeger-Direct-Cont.)

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DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q After you left Landau on the evacuation did you observe Neye's treatment of his fellow-prisoners?

A No.

Q Do you think that you could recognise Neye if you saw him again?

A Yes.

Q Will you look at the prisoners who are sitting in the dock behind me and see if you can find the man you knew as Neye?

A I know Neye. I can see him.

Q Will you point him out to us?

A (Indicating) He sits up there — Neye.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 30 as Walter Neye.

Q And this is the man that you have been talking about?

A Yes we have been talking about Neye but I don't know about the other.

Q This morning you testified that Neye was blockeldest of one of the blocks at Landau?

A Yes.

Q Were you ever present in the block when Neye was there?

A Yes, we were more or less in the same position. Neye had block 1 and I had block 5.

Q Were you ever actually present in Neye's block during the time that you were with him in Landau?

A No, we were never together on the block.

Q Did you ever hear anything about how Neye treated the prisoners in his block?

A I heard mentioned a few times that Neye treated the prisoners as he had to treat them.

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Q What do you mean by that?

A When a prisoner stole something the prisoner received a few boxes on the ear.

Q Did you ever hear anything else?

A Nothing else. If Walter Neye had reported a prisoner — reported him to headquarters — the prisoner would have been punished from that source and Walter Neye always avoided this.

MR. McKAY: I am through with the direct examination.

PRESIDENT: Cross-examination?

Mr. BERKOWITZ: No questions.

PRESIDENT: Questions by members of the court? Apparently not. Redirect? Any further questions by the defense?

MR. McKAY: Nothing.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: If it please the court the next witness is actually going to testify on behalf of two of the accused, No. 30 and No. 31. However, at the present time No. 31 is detained in the hospital so that I shall introduce him now only for the accused No. 30 at this time, subject to being recalled later on when No. 31 is back in the dock.

PRESIDENT: The court will grant that request.

MR. McKAY: Call Walter Kalledeit.

WALTER KALLEDEIT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court?

A Walter Kalledeit.

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Q Where do you live, Mr. Kalledeit?

A Koenigsberg, East Prussia, now the name has been changed to Kaliningrad.

Q Where are you at the present time residing?

A In the special camp in Dachau in the sonderlager.

Q Are you being held by the American authorities in the sonderlager?

A Yes.

MR. McKAY: If it please the court, I have already explained to this witness his rights as a witness but I would request the court that they be explained at this time before he gives further testimony.

PRESIDENT: The court sees fit at the present time to advise the witness that if any questions are asked him while on the stand testifying before the court and these questions tend to incriminate, as far as you are concerned, you can ask the court to refrain from answering same.

THE WITNESS: I understand.

PRESIDENT: Proceed.

Q Mr. Kalledeit, were you ever a prisoner in Flossenburg Concentration Camp?

A I was in the camp of Flossenburg six years and three months.

Q Were you ever in camp Flossenburg during the period of time from January 1st, 1942 until April of 1945?

A Yes I was there the whole time.

Q During that time, Mr. Kalledeit, in what block did you live?

A I lived in the various blocks.

Q Well, in the year of 1944 what block did you live in?

A I was quartered in block 7 from the end of '44 until '45.

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Q During the time that you lived in block 7 did you ever come in contact with another prisoner by the name of Walter Neye?

A I knew Walter Neye since 1942.

Q Well, during the time that you lived in block 7 did you know Walter Neye?

A Yes I knew him then, of course, also.

Q Can you explain to the court whether Neye lived in the same block or not?

A Yes I was quartered with Walter Neye in the same block. The block was divided into two wings. He was quartered in wing A and I was quartered in wing B.

Q During the time that you lived in block 7 what duties with regard to the block did you observe Walter Neye perform?

A For some time Walter Neye was without work and then he worked and he had work around the block, block helper worker.

Q Now will you explain to the court just what work he did around the block?

A Walter Neye cleaned up the block, went and got food from the kitchen, and was also present when food was given out.

Q Were you ever present when Walter Neye distributed food?

A The A and B wings were divided as far as the giving out of food was concerned. The food was generally given out inside each wing and you couldn't see from one wing to the other because the doors were there.

Q During the time that you knew Walter Neye did you observe what color triangle he wore?

A Walter Neye wore a red triangle. He had a stripe on it which showed that he had been in the camp more than once.

Q How long did you continue to live in the same block

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with Walter Neye?

A I stayed with Walter Neye until the end of 1944 and then I was sick. I went to the hospital. I don't know any more about it.

Q During the time that you lived with Walter Neye in block 7 did you ever hear other prisoners discussing him?

A Nobody ever said anything bad about Walter Neye in the block itself.

Q Did you have an opportunity while you lived in block 7 to observe how Walter Neye treated prisoners?

A No I didn't have that opportunity.

Q Were you acquainted with the reputation that Walter Neye had during the period of time that you lived with him in block 7?

A No, I didn't know his name. I was a year and a half in camp and I only knew five or six names of people who lived in the same block with me.

Q Well, a moment ago you said you never heard anybody say anything bad about Walter Neye. Will you explain what you meant by that?

A I didn't hear anything, no.

Q During the time that you were in Flossenburg will you explain to the court just what occurred as far as rumors and the like whenever a prisoner was known to mistreat other prisoners?

A Through the blockeldest or the campeldest he would be first of all brought to the clerk's office and then he would be reprimanded. He would either be admonished to quit doing what he was doing or he might be punished.

Q Well, during the time that you were in Flossenburg were there ever prisoners there who were known to mistreat other prisoners?

A I can't say exactly. So much happened in those years that I can't refer to an individual person. I had to take care of myself.

(Kalledelt-Direct)

Q Well can you give the court any idea as to what kind of a man you knew Walter Neye to be while you were living together in block 7?

A I only knew that he was three or four years in Flossenburg. We didn't even greet each other. I didn't have any personal contact with Walter Neye. I know that in one year, either '42 or '41 when he wasn't capable of earning a living, he was weak and was quartered for six weeks in a convalescent ward from where the people were quartered and couldn't do any work.

Q Well now, are you definitely sure of the date of that?

A No, I can't give you any exact time. I know it was either '41 or the beginning of '42.

MR. McKAY: May it please the court, I move that that be stricken from the record as not responsive since it covers a period of time not covered by the charges.

PRESIDENT: Motion is sustained.

Q During the time that you lived in block 7 along with Walter Neye will you explain to the court whether you ever heard any prisoner complain of mistreatment by Neye?

MR. BERKOWITZ: If it please the court, I'll ask that that answer be stricken. In the first place the question was leading. In the second place it was a question that involved a man's reputation.

PRESIDENT: Motion sustained.

Q Mr. Kalledeit, do you think you could recognize as the man you knew of as Neye if you saw him again?

A Walter Neve — yes.

Q Will you look over the prisoners who are sitting in the dock behind me and see if you can recognize the man you knew as

Walter Neye?

A Walter Neye -- he's up there in the second row, No. 30.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 30 as Walter Neye.

PRESIDENT: Prosecution?

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. SKIELVIG:

Q You previously testified that you didn't know Walter Neye by name. Where did you first learn his name?

A Already in the camp at least by 1942.

Q You actually knew him by name then during 1944?

A Yes, I knew him then by name. In the concentration camp we didn't go by names, we went by numbers.

QUESTIONS BY LAW MEMBER:

Q When did you last see Walter Neye in the concentration camp?

A I saw him for the last time at Christmas 1944-45.

Q How long were you in Flossenburg?

A Until the day of evacuation.

Q You said you saw him Christmas, 1945, is that correct?

A I saw him around Christmas 1944-45.

Q Did you see him in April 1945?

A No I didn't see him in 1945.

Q You didn't see him at all in 1945?

A Not '45.

Q Was Walter Neye in Flossenburg at any part of 1945 do you know?

A As far as I know he was with the work detail in Stich

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for a time. That is outside the camp.

Q That's outside of the Camp Flossenburg proper you mean?

A Outside the main camp of Flossenburg.

Q How far is that from Flossenburg?

A Perhaps half an hour away.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. McKAY: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused.)

MR. McKAY: The next witness is being called on behalf of the accused No. 25. Call Mr. Korbelius.

OTTMAR KORBELIUS, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q State your name to the court.

A Ottmar Korbelius.

Q Where do you live at the present time, Mr. Korbelius?

A Spiegelau in the Bavarian forest.

Q Is that in Germany?

A In Germany, yes.

Q What is your nationality Mr. Korbelius?

A Austrian.

Q What is your present business or profession?

A I am the chief of the kitchen in a jam factory in Spiegelau.

Q Were you ever a prisoner in the concentration camp of Flossenburg?

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A Yes.

Q When did you arrive in Camp Flossenburg as a prisoner?

A 1st of November 1943.

Q How long did you remain in Camp Flossenburg?

A Until the 21st of April 1945.

Q Will you explain to the court how you happened to become a prisoner in Camp Flossenburg?

A The Gestapo arrested me for black-marketing and delivered me to the camp as a habitual criminal.

Q When you were picked up by the Gestapo for black-market activities were you given any kind of a trial and sentence?

A No.

Q During the time that you were in Camp Flossenburg did you ever become acquainted with a prisoner by the name of Karl Mathoi?

A Yes.

Q Will you explain to the court how you first became acquainted with a man by the name of Karl Mathoi in Flossenburg?

A I worked in the quarry with a temperature of 51.8 until I collapsed. The temperature wasn't enough for me to be declared sick. After I collapsed they carried me into the hospital. There I learned to know Karl Mathoi as capo of the hospital.

Q How long were you a patient in the hospital?

A Eight weeks.

Q You stated that Karl Mathoi was hospital capo. Will you explain what you mean by that?

A He had to take care of the patients who were delivered there and see to it that they won their health back again.

Q Will you describe just what duties you saw Karl Mathoi

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perform during the time you were in the hospital, as hospital tape?

A He had to take care of the patients. Above all, in the morning when the doctor made his examination, his visit, he had to accompany the doctor and he had to carry out all the orders which the doctor told him to carry out in the morning. The doctor gave the orders on the double.

Q During the time that you were a patient there in the hospital did Karl Hathol ever take care of you?

A Yes.

Q Will you describe to the court how Karl Hathol treated you as a patient while you were in the hospital?

A I can only say one thing. If Karl Hathol hadn't been there in the hospital at that time I would be a dead man today.

Q How do you explain that?

A Dr. Schmitz ordered that 600 cubic centimeters of blood be taken from me when I was in that condition with a fever of 41.4°C and in that way I believed that he wanted to send me to the Elysian fields.

MR. MACKEY: I would like to advise the court that Dr. Schmitz is not in the court room at the present time and I don't believe that he is properly represented as he would wish to be represented.

MR. McKAY: If it please the court, I think that that is perfectly right, that Dr. Schmitz and his defense counsel should be present during the interrogation of this witness.

MR. BURKETT: I join in that recommendation.

MR. McKAY: I request that this particular answer be held up until they are actually present.

PRESIDENT: The request will be granted. The court will take a short recess.

(Thereupon the court recessed in place.)

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PRESIDENT: Court will come to order.

MR. McKAY: If it please the court, in order to facilitate Mr. Hall and Dr. Schmitz I request that the last two questions and the answer to the one question be read by the reporter so that they can hear what has transpired.

(Whereupon the reporter did as requested.)

MR. HEIMOWITZ: If it please the court, let the record show that Dr. Schmitz and Mr. Hall have returned to the court room.

PRESIDENT: I think the record should also indicate that Mr. Hall is representing Dr. Schmitz. All right, proceed.

MR. McKAY: Will you repeat the last question that I gave so that he can complete his answer.

(Whereupon the reporter did as requested.)

MR. McKAY: Had you completed your last answer prior to the time that I stopped you, Mr. Korbelius?

A How did you interrupt me?

Q I directed that you not answer it or that your answer not be interpreted until Dr. Schmitz and his counsel could be present.

A It's all the same to me. I'll stick to my answer because it's the whole truth.

Q Did you complete an answer to the question prior to the time you were interrupted?

A The answer is finished.

PRESIDENT: Court will adjourn until one-thirty this afternoon.

(Whereupon the court adjourned at 1200 hours.)

CAMP DACHAU, GERMANY

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the Prosecution with the exception of Mr. Pinter, who is absent onbusiness of the Prosecution; all of the Defense, with the exception of Lt. Col. Wilson, and Major Coding, who are absent on business of the accused; all of the accused with the exception of Buddensieg, Schreiber, Pons, Oswald and Olschewski, who are sick in the hospital, Haubold who is conferring with his counsel, and Hirbusch who is sick in the bunker. The interests of these accused who are absent are being taken care of by their counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the courtroom.

OTTMAR KORBELIUS, called as a witness for the Defense, resumed the stand and having been reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY

Q Mr. Korbelius, had you ever seen Carl Mathei in Flensburg prior to the time you were in the hospital?

A Yes.

PRESIDENT: Just a minute. Did you interpret that, now, what was said?

INTERPRETER: Yes.

PRESIDENT: Did you interpret the opening remarks of the Prosecutor, warning the witness?

INTERPRETER: Yes.

PRESIDENT: You have got everything in there? Did you?

INTERPRETER: Yes.

PRESIDENT: O.K.

Q What was the nature of your acquaintance with Mathei prior to the time you were in the hospital?

A I wasn't acquainted with him in any particular matter, I only knew him as a camp eldest. Everybody probably knew him as such.

Q During the time that you were in the hospital did you have an opportunity to observe how Mathei treated other prisoners other than yourself?

A I couldn't observe much, because most of the time I was lying in such a manner that I was barely able to move an arm.

Q What ward were you in when you were in the hospital?

A In ward 5.

Q Were there other prisoners in that ward at that time?

A Yes.

Q Did you observe whether Mathei had anything to do with these other prisoners?

A Yes.

Q Will you describe for the court what you saw with respect to Mathei's treatment of the other prisoners who were in the ward with you?

A There really isn't much to be described. Karl Mathei was able to do that for which he had medicine available and that was practically only aspirin.

Q Do you know whether Karl Mathei ever mistreated the prisoners in your ward?

A No.

DEFENSE COUNSEL (Mr. Berkowitz) Objected to.

PRESIDENT: Did you see me raise my hand to stop that witness? Any time there is an objection, I don't want an answer made. Now that is up to the Interpreter to assist the court in that respect.

DEFENSE COUNSEL (Mr. Berkowitz) I was about to object to the question as being leading, but since it has been answered, I move the answer

be stricken from the record.

PRESIDENT: The reporter will repeat the question and the answer.

(Whereupon the question and answer were read by the Reporter.)

PRESIDENT: Motion is sustained.

Q Well, will you describe for the Court just what you saw Karl Mathoi do with regard to the other prisoners who were in the ward with you?

PROSECUTION (Mr. Berkowitz): Objected to as a repetition; the question has already been asked and answered, sir.

PRESIDENT: You are referring to the question and answer that was stricken from the record?

PROSECUTION (Mr. Berkowitz): No, sir, the prior question was: "How did he treat the other prisoners?" And he has answered that.

PRESIDENT: Reporter will read the last question and answer before the one that was stricken.

(Whereupon the question and answer were read by the Reporter, as follows: "Do you know whether Karl Mathoi ever mistreated the prisoners in your ward?
"Answer: No.")

PRESIDENT: Now read the last question.

(Whereupon the Reporter read the last question, as follows: "Well, will you describe for the court just what you saw Karl Mathoi do with regard to the other prisoners who were in the ward with you?"

PRESIDENT: Your idea, Mr. McKay, was that the last answer was not complete?

DEFENSE COUNSEL (Mr. McKay): That is right.

PRESIDENT: Under the circumstances, the objection is overruled.

DEFENSE COUNSEL (Mr. McKay): Will you read the last question?

(Whereupon the last question was again read by the Re-

porter.)

A He treated them exactly the way he did me.

Q During the time that you were in the hospital did you know of Karl Mathei's reputation among the patients in the hospital?

A Yes.

Q Will you describe to the court just what Karl Mathei's reputation was among the patients in the hospital?

A The reputation of Karl Mathei in Ward No. 5 was the very best.

Q When you say the very best, what do you mean?

A That he did the best possible to improve the condition of the prisoners and also help them in their food supply wherever he could.

Q During the time that you were in the hospital will you describe for the court whether there were any rumors among the prisoners with regard to Karl Mathei's doing anything like operations or the like?

A I know nothing about that.

Q You stated on examination this morning that Dr. Schmitz ordered 600 cc of blood removed from you. Do you know just how many centimeters Karl Mathei actually removed from you?

A Yes.

Q How much?

A 30.

Q After you were released as a patient from the hospital did you continue to come in contact with Karl Mathei as hospital capo?

A No.

Q Do you know whether Karl Mathei continued as hospital capo after you left?

A Yes, he was relieved.

Q Was there any rumor in the camp with regard to why Mathoi had been relieved of his hospital capo job?

A No.

Q Do you know where Karl Mathoi was sent to work after he was relieved as hospital capo?

A To the stone quarry.

Mr. Korbelius, during the time that you were a prisoner in Flossenburg, did you ever hold any position such a capo, block eldest, block clerk, or the like?

A No, I was common prisoner.

Q You stated that you were put in a concentration camp for black market activities. Had you ever had any other kind of a criminal conviction prior to that incident?

A No.

Q Do you think you could recognize Karl Mathoi if you saw him again?

A Yes.

Q Will you look at the prisoners seated behind me in the dock and see if you can recognize a man which you knew as Karl Mathoi?

A Yes.

Q Will you point him out to me?

A The one in the brown coat.

Q Let the record show that the witness has identified the accused wearing No. 25 as the man he knew as Karl Mathoi. That is all.

PRESIDENT: Prosecution?

CROSS EXAMINATION

QUESTIONS BY MR. BUWKOWITZ:

Q Now, Mr. Korbelius, during the time that you were in Flossenburg was there any distinction drawn between Austrians and Germans?

A Well, it is perfectly obvious that the Austrians were

not as popular as others in camp, just as they were outside.

Q Officially, was there any distinction between Austrians and Germans?

A No.

Q Now in Ward 5,-4n what ward were the German prisoners placed?

A In ward 5.

Q German prisoners were placed only in Ward 5; is that correct?

A In ward 5.

Q And yourestimate of the reputation of Mr. Mathoi is based upon what you heard from German prisoners?

A Of German prisoners in Ward 5.

Q And you do not know what his reputation was in the other wards, do you?

A No.

Q And you do not know how he treated prisoners in other wards, do you?

A I only know that Poles and Russians, the greatest part of them, always took the part of Karl Mathoi.

Q They took his part? Against whom?

A Well, if they needed something or something like that, they went to Karl Mathoi.

Q Do you know what his reputation was in the other wards?

A No.

Q Did you ever find out what his reputation was amongst the prisoner doctors in the hospital?

A I didn't either.

Q And you do not know of his activities in other wards or other departments of the hospital?

A No.

Q MR. BURKOWITZ: No other questions.

PRESIDENT: Redirect?

MR. McKay: I think Mr. Hall has some questions.

(Korbelius - cross)

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL

Q I believe the incident concerning Dr. Schmitz took place in 1944; is that correct?

A Yes.

Q Do you recall the month?

A July.

Q On that particular day you had been working in the quarry; is that correct?

A No, I was already lying in the hospital then.

Q How long before that had you been working in the quarry?

A That was from January until June.

Q How many days prior to the time you were first admitted to the hospital had you been working in the quarry?

A Eight days before I was first in the hospital, but was not admitted, I had still been working in the quarry.

Q How many days after you were admitted to the hospital was it before you saw Dr. Schmitz?

A See Dr. Schmitz? How? Before I was admitted to the hospital?

Q Did you see Dr. Schmitz the very day you were admitted to the hospital?

A Yes.

Q Did you come at a general sick call or as an individual patient?

A General sick call.

Q How many people would you say were present at that general sick call?

A Fifteen or twenty.

Q Who was present at the general sick call? Or, rather, was Dr. Schmitz present at this particular sick call?

A Yes.

Q Who was present beside him in the way of camp officials?

A There were Poles there who worked as medics and I think there was one German there too.

Q What was your fever at that time?

A 39.8 the first time I went into the hospital and the second time when I was admitted I had 41.4 degrees centigrade.

Q Then you were not admitted this first time; is that correct?

A It was said that I was not sick.

Q How long after the first trip was it before you returned to the hospital the second time?

A The first time I was told that I was not sick, so I didn't go there any more until eight days later, when I had already collapsed and they took me into the hospital.

Q Where did you go during these eight days?

A Back to work.

Q And where was it that you collapsed?

A In the stone quarry.

Q What time of day were you finally admitted to the hospital the second time?

A At what time of day?

Q Yes.

A It was 8:30 in the morning when the men who needed it were sent to the hospital from the C.P.

Q When you came to the hospital the second time then it was not at a general sick call but as an individual patient; is that correct?

A As an individual. Well, there were three of us who were taken. Three of us had reported sick and we were taken inthere together.

Q And who was present at this second examination in the way of camp officials?

A Those medics again who were employed there. The foreign-

ers, Russians, Germans.

Q Was Mathei present at that time?

A He was not present in the hospital room. In the dispensary.

Q Where was Dr. Schmitz at that time?

A He was there at the sick call.

Q Where did you learn of your temperature the first time you were at the hospital?

A Because the medics had taken my temperature.

Q Who was the individual who took your temperature?

A A Pole, with black hair.

Q Do you know his name?

A No.

Q And he is the one that told you what your temperature was; is that correct?

A I saw it myself because I took it out myself.

Q And the second time who took your temperature?

A The second time again in Ward 5 this medic there.

Q And who was that?

A Who it was, I don't remember his name any more. A certain Fritz Salomon. Later on he himself died of typhoid fever.

Q How long after your examination by Dr. Schmitz the second time was it before you went into Ward 5?

PRESIDENT: Just a minute. The court desires to verify that matter of typhoid. Are you satisfied that it was typhoid fever, or typhus?

INTERPRETER: Typhoid fever, according to what the witness said.

PRESIDENT: Better verify the matter.

Q Do you mean typhoid fever or typhus?

A Typhoid fever, it was.

Q How long after your examination the second time was it

before you were placed in Ward 5?

A I remained there right away.

Q Will you verify that answer, please, Interpreter? I remained there right away, did you say?

A Yes.

Q You mean you were sent to Ward 5 immediately?

A Yes.

Q And Dr. Schmitz was the one who just then examined you, is that correct?

A No, I wasn't examined right away.

Q Well, Doctor Schmitz was the one who was present at the ambulance, isn't that correct?

A Yes.

Q Isn't he the one that sent you to Ward 5?

A Well, my temperature was taken; the temperature was given to the Doctor and the Doctor then ordered that I was to be taken to Ward 5.

MR. BURKOWITZ: May I ask if this is cross examination?

MR. HALL: I am examining in behalf of Dr. Schmitz, No. 40.

PRESIDENT: That statement should ordinarily be made at the start.

MR. HALL: I made no such statement, sir. Who was the doctor that sent you to Ward 5?

A Dr. Schmitz.

Q And you remained in Ward 5 for eight weeks; is that correct?

A Yes.

Q How many times after that first examination was it that you saw Dr. Schmitz?

A Seven days later. That is, he made the rounds every day but he didn't do anything on me except just walk by.

Q Do you know whether he stopped in front of your bed for so much as a second, even?

A Yes, I can say that much.

Q All right; what did he do during that second? Look at anything at all?

A He asked me how I was doing.

Q What did you say?

A That my kidneys were hurt.

Q What did they ever tell you was wrong with you?

A That I had kidney trouble and that he had ordered this and that to be done. The only thing that could be done were tablets, which I was getting.

Q Was there any doctor in that ward to assist Dr. Schmitz?

A No.

Q You never did see an inmate doctor in Ward 5, is that correct?

A Prisoner doctors came inside once in a while but those were mostly foreigners. They had nothing to do with Ward 5.

Q Well, what did they do when they came in?

A They treated the prisoners whom they had to take care of, but in Ward 5, with us, we only had the medic in that.

Q Well, you said the foreign inmate doctors came into Ward 5, isn't that correct?

A They came in once in a while in order to pay a personal visit to some German whom they might have liked, and might have known from outside the camp, but they did not come in for treatment.

Q Who was the medic that did offer treatment there?

A Fritz Saller.

Q Was he an SS man?

A No, a prisoner.

Q How often did Mathoi come in?

A Daily, together with the Doctor when he was making his rounds. And he then executed the orders which the physician would give him as he was making his rounds, after the physician had gone.

Q Of course he didn't execute this one order to withdraw 600 cc of blood. Is that correct?

A No.

Q Now did you ever tell anybody that--first of all where were you when this order to withdraw 600 cc. of blood was given?

A In bed in the hospital.

Q And where was Dr. Schmitz when he gave the order?

A In Ward 5 where I was lying.

Q Right beside the bed?

A Yes.

Q And Mathoi was standing beside the bed also?

A Behind Dr. Schmitz.

Q And at that time you had 41 degrees fever?

A Yes.

Q Were you quite conscious?

A Some of the time I had moments when I was able

to think quite clearly.

Q Part of the time you couldn't think clearly, is that correct?

A Yes. Well, I slept most of the time because I was so exhausted.

Q Now could that have been 600 cc or might it not have been six centimeters?

A No, no; 600.

Q You are positive you heard that correctly?

A Yes.

Q Now from what part of your body was the blood withdrawn?

A At the elbows here; left and right.

Q Were you conscious when it was withdrawn?

A Yes.

Q How long did Dr. Schmitz stay at your bed at that time?

A Not at all; he wasn't present when the blood was withdrawn.

Q Well, how long did he stay at your bed at the time you heard this 600 cc story?

A One or two minutes, possibly.

Q What else did he say to Mathoi at that time?

A What else did he tell to Mathoi?

Q That is right?

A He didn't say anything else except that my temperature would have to go down and the only thing to do it would be to take off some blood.

Q Did he say to take off some blood?

A Take off.

Q But I mean, did you say he said to take off some blood?

A Who?

Q Mathoi?

A Mathoi indicated behind Dr. Schmitz' back that he wouldn't do that because he probably noticed that I looked very much afraid after this word was mentioned.

Q After the word blood was mentioned?

A Withdraw blood. Not that word, but 600 cc.

Q Do you mean Mathoi made a signal in back of Schmitz' back that he would not withdraw 600 cc of blood?

A He indicated that to me, that he wouldn't do that, yes.

Q Right in the presence of Dr. Schmitz?

A He didn't say that.

Q Well, did Mathoi think that it was unnecessary to withdraw any blood?

MR. McKAY: The question is objected to for the reason it calls for a conclusion of the witness.

PRESIDENT: Objection sustained.

Q Well, if the court please, if I might, may I respectfully ask the reconsideration of the question and be permitted to explain my reason?

PRESIDENT: It is clearly evident that it is a matter of conclusion as far as this witness is concerned, relative to what was in the mind of Mathoi. Inquire into the situation in a different manner, if you care to.

Q Did Mathoi make any statement concerning the amount of blood which should be withdrawn?

A He merely told me when he came back in the evening that it was crazy to do that--to withdraw so much blood and that he would withdraw only 30 cc.

Q You did not know at that time, then, how much he actually withdrew?

A He showed it to me in a syringe, that it was 30 cc. He took three syringes full out and one of them contained 10 cc.

Q Now you said that if the Poles and Russians needed care or needed something they always went to Mathoi. Will you please enlarge upon that statement a little bit?

A They needed shoes, clothes, underwear, and they couldn't get that from the supply room so they came to Karl to get it .

Q And that was his general reputation throughout the camp?

A I can't say that.

Q You are speaking now only of those in the hospital?

A I can't say anything bad about him and I didn't hear of him having any bad reputation in the hospital.

Q Well, did you ever go to Mathoi for anything? Did you ever need anything?

A No.

Q How did you find out that so many people were going to Mathoi?

A Because you could see that. We worked in the supply room too, and you could often see that Karl Mathoi would come in with so and so many people and request so and so much for them.

Q Did he have any authority to grant such privileges to prisoners?

PROSECUTION (Mr. Berkowitz) If the court please, I have to object to this line of questioning. It exceeds the scope of cross examination in behalf of Dr. Schmitz. He is using cross examination to put leading questions to the witness and to elicit information for and in behalf of the defendant Mathoi. I object to any cross examination that goes beyond the relevancy for the case of Dr. Schmitz.

DEFENSE COUNSEL (Mr. Hall) I certainly didn't intend to create the impression with the Prosecution that I was doing anything here on behalf of Mathoi. The witness stated that if these people needed anything they went to Mathoi. That was on direct examination. Or on cross examination, I don't know which.

PRESIDENT: Mr. Burkowitz, be a little more specific just what question are you referring to now? The whole interrogation, or what?

DEFENSE COUNSEL (Mr. Burkowitz): To Mathoi's treatment of other prisoners.

PRESIDENT: You are objecting to that matter being referred to by Mr. Hall on cross examination?

PROSECUTION: Mr. Berkowitz: Yes, sir, in the form of cross examination. If the defense wants to take him back on redirect examination and subject to the rules on redirect, that of course is proper.

PRESIDENT: And is your contention that that matter was not covered on direct examination?

PROSECUTION (Mr. Berkowitz): Yes, it was covered in the direct, but Mr. Hall is examining on cross examination on behalf of Dr. Schmitz. Now if defense wants to go into that they should go back on redirect examination.

DEFENSE COUNSEL (Mr. Hall): What the Defense is trying to do, if the court please, is to avail themselves of the latitude allowed in cross examination to elicit questions that should properly be brought out on redirect.

PRESIDENT: Mr. Hall will confine himself strictly to cross examination. Now if there are any questions with reference to Mathoi, as far as Dr. Schmitz is concerned, that have been brought out during the cross examination or direct examination, or even by cross examination on the part of Prosecution, that matter could well be covered on the cross examination of Mr. Hall. The court directs that you stick strictly to cross examination.

DEFENSE COUNSEL (Mr. Hall): But it was the intent to explain my position in the matter--it was the intent to consider in more detail certain statements

made by the witness with the thought in mind that all of these statements and the answers go to the credibility of the witness and not an intent to develop upon cross examination any particular specific material evidence for Mathoi or against Mathoi, or for Schmitz or against Schmitz.

PRESIDENT: The court will allow you a certain amount of leeway, Mr. Hall, as far as the credibility of this particular witness is concerned. All right; proceed.

Q Now you had no connection with the supply of medicines at Flossenburg, did you?

A No.

Q What is the basis for your statement that aspirin was practically the only medicine available?

A Because I myself received it most of the time and so did many others who were suffering from different diseases.

Q Are you in position to state what people should have received in the way of medicine?

A No.

Q When you were discharged from the hospital to what work did you go?

A I was in the convalescent's lodge No. 16, for one week, and was then sent to the 3004 factory, hall No. 3, as a worker in the construction of ribs of wings of airplanes.

Q Did you become a clerk there at one time?

A No, on the 21st or 24th of December, I was called up by the C.P. one time. I had to give him a sample of my handwriting and I was asked what I was by profession, and then on the Christmas Eve I was sent to the Delta Hall as hall clerk.

MR. HALL: That is all.

PRESIDENT: Any further redirect?

MR. McKAY: Nothing further.

PRESIDENT: Any recross?

PROSECUTION: Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. SKILVIC:

Q Your previous testimony was that you had fever 51.428; is that correct?

A No; 41.

LT. COL. SKILVIC: All right; no further questions.

PRESIDENT: Any further questions by members of the court?

LAW MEMBER: Inanswer to a question by Mr. McKay, he asked you whether or not you had had any other criminal convictions other than the time you were sent to the concentration camp. I understood in your testimony that you had never had any convictions. Which is correct?

A I had no previous convications.

Q Well now, you say you have no previous convictions, that presupposes that there was one conviction?

A No. That means that I had no conviction except the one which I got concentration camp for and before the gestapo got me to the concentration camp 18 months elapsed.

Q You testified on your direct examination that you were arrested by the gestapo and were sent to the concentration camp without a trial. Now were you tried and convicted, or were you sent there without a trial?

A I was sent there without trial. They couldn't prove anything on me and they didn't know how to punish me. After 18 months they took me to this concentration camp Natzweiler in Alsace, where this commandant Kramer was.

Q Then, if I understand correctly, you have never been tried and you have never been convicted; is that right?

A No.

Q Is that right or not right?

A That is right.

PRESIDENT: Any further questions by the members of the court. Apparently none. Redirect? Mr. Hall, do you have anything further?

MR. HALL: Nothing further, sir.

PRESIDENT: Prosecution?

PROSECUTION (Mr. Berkowitz): Nothing further.

PRESIDENT: Mr. McKay, I understand the defense rests with this witness?

DEFENSE COUNSEL (Mr. McKay): With this witness.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the court room.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place for ten minutes.)

(The Court, at 2:35, resumed proceedings.)

PRESIDENT: The Court will come to order.

DEFENSE COUNSEL: (Mr. McKay) If the court please, on behalf of the accused Walter Neye, I announce to the court that the accused himself desires to take the stand in his own Defense.

PRESIDENT: Take the stand.

WALTER PAUL ADOLF NEYE, one of the accused, voluntarily took the stand in his own defense and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. McKay)

Q Will you state your name to the court?

A Walter Neye.

PRESIDENT: The court would like to ask you, Neye, whether or not you desire to take the stand in your own behalf?

A Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. McKAY:

Q Walter, are you one of the accused in this case?

A Yes.

Q Were you a prisoner in the concentration camp Flossenburg?

A Yes.

Q Will you explain to the court how you became a prisoner

A Because of labor sabotage.

Q Where were you picked up?

A In Berlin.

Q When was that?

A I was arrested by the Gestapo on the 16th of August, 1942, in Berlin.

Q How long after yourarrest was it that you were actually sent to Flossenburg as a prisoner?

A I arrived in Flossenburg on the 4th or 5th of September, 1942.

Q And how long did you remain in Camp Flossenburg at that time?

A I remained in Camp Flossenburg until 1943, August.

Q What happened to you in August of 1943?

A In August 1943 I left Camp Flossenburg and was sent to a bycamp, Krondorf, in the southern area in Chechoslovokia.

Q Can you explain to the court whether Krondorf was an out-camp of Flossenburg?

A Yes, it was an outcamp of Flossenburg.

Q And how long did you remain there?

A Eleven months.

Q Where did you go after 11 months?

A Back to Flossenburg by order of the Commandant Koegel.

Q And how long did you remain in Flossenburg at that time?

A Until March 16, 1945.

Q Now, during the first period of that stay that you were in Flossenburg, on what details did you work?

A Before 1942?

Q Before 1943. Before you went to Krondorf?

A Before I was sent to Krondorf?

Q Yes?

A In the shop; mechanical shop and also in the stone quarry. and four months in the punishment company.

Q Why were you four months in the punishment company?

A Because of the theft of bread in the bread warehouse and theft of potatoes.

Q When you arrived in Flossenburg what color triangle were you given to wear as a prisoner?

A A red one with a bar across it as a repeated offender.

Q Had you been in a concentration camp prior to your arrival in Flossenburg?

A Yes.

Q When you worked in the stone quarry, what particular work did you do?

A In the mechanical shop I repaired the cranes from the stone quarry when these got out of order.

Q How long did you work on that detail?

A Four months.

Q Did you hold any kind of a position with regard to that detail while you worked on it?

A No.

Q When you went to Krondorf what kind of work did you do there?

A I did some shop work there too.

Q Did you hold any kind of position there?

A No.

Q When you were at Krondorf did you ever come in contact with a man by the name of Koenig?

A Yes.

Q Was that the same Mr. Koenig that testified in this court several days ago?

A Yes.

Q How long were you and Koenig together?

A About eight months.

Q And when you returned from Kronderf to Flossenburg, will you explain to the court the condition of your health?

A Well, just about like today.

Q What block did you live in when you returned to Flossenburg from Kronderf?

A Blocks 20, block 17, Block 4 and Block 7.

Q At the time that you lived in these blocks did you have any official duties in connection with the block?

A No, I never was Block Eldest in Flossenburg.

Q And did you hold any other kind of position with regard to the Block, while you were there?

A I never had any kind of position in the concentration camp with the exception of these 20 days in Landau on the Isar, I was Block Eldest there.

Q During the time that you lived in Block 7, will you explain to the court how you ever took part in the distribution of soup among the prisoners?

A Yes.

Q Explain what you had to do, to the court.

A I was transferred to block 7 in November 1944, and in January 1945 I had to do the Block service, or the room orderly service. I was put in charge of picking up the food for the prisoners from the kitchen to bring the bread from the warehouse. I was responsible for the cleanliness of the Block, I was in charge of delousing, and I was in charge of the personal hygiene of the prisoners.

Q How long did you continue to be an orderly in Block 7?

A Three or four weeks.

Q How many men were living in Block 7 at the time you were living there?

A In both wings together, a total of 1200.

Q Which wing did you live in in Block 7?

A Wing A.

Q Who was the block eldest of your Block 7?

A A compatriot of mine, Max Jakobs. He is dead today.

Q Will you explain to the court just what you had to do with the distributing of soup that you brought from the kitchen?

A There were about 750 to 800 prisoners living in Wing A, so when I had to bring up soup and food I had to take about a hundred prisoners along; because, in general, prisoners were weak, I put four prisoners to every kettle. Two prisoners would grab them by the handles and two would take hold of them, putting the kettle under their armpits so that the load would be easier on them.

Q How much soup would one of these kettles contain?

A Fifty liters. The kettle might have weighed 140 to 150 pounds.

Q How many kettles of soup did you draw for your wing each day?

A Eighteen.

Q Will you explain to the court the actual process that you followed with the prisoners when you distributed the soup?

A I will have to start at the point where I picked the food up in the kitchen. I will be free to admit that the prisoners were quite starved. Now when I came with my prisoners from the kitchen walking to Block 7, the prisoners from all the intermediate blocks would come out and try to get something to eat and push my kettles over and so on. These were from Blocks 2, 3, 4, 5, 9, 10 and 11.

(Mayo - direct)

Q Walter, will you come over here and look at Prosecution's Exhibit 5 and point out to the court the place where the kitchen was and where you got the soup?

A (Indicating) The kitchen is here.

Q Let the record show that the accused has indicated a Block with the figure 5 in black and the word "Kitchen" written in red. Now will you show me which was Block 7, where you were living, to which you had to take the soup?

A Block 7 is where I was living, and was up here.

Q Let the record show that the accused has indicated a Block on Prosecution's Exhibit 5 with the figure 7 in red, which is at the top of Prosecution's Exhibit 5, within the closed black line.

A So as I was picking up the kettle with my prisoners I had to go out here, around there, and up here.

Q Let the record show that the accused has pointed at a path which he had to go from the kitchen, from the lower section of Prosecution's Exhibit 5 in the path between the blocks, which are numbered 1 to 7 on the left and 8 down to 12 on the right. Will you describe for the court just the physical contour of the path between the blocks that you had to follow in order to get to Block 7?

A This pathway here is the staircase where the steps went up, 126 of them. And so it happened frequently--I say frequently, because it did not happen always, that prisoners--maybe 80 or 100 would come out from these side roads here and would attack us.

Q Let the record show that the accused has indicated the pathway between the blocks heretofore described as containing a stairway containing 120 steps. Let the record further show that the accused has indicated that prisoners came from the areas between blocks 3 and 4, 4 and 5, 5 and 6, 11 and 10, and 10 and 9. How long did it take you to go from the kitchen to Block 7 with your soup?

A About six or seven minutes.

Q Will you come back to the witness chair?

A So, of course it happened when we were attacked like this that I got into a great rate and shouted and yelled terribly. I can't deny that somebody might have gotten slammed or kicked, but anyhow, if they turned over two or three kettles, as did happen, and I didn't get any more from the kitchen, why my beloved coprisoners would then go to the block eldest or the camp eldest, or the prison compound commander, or to the C.P., and the net result would be that I would get 25 or 30 strokes because I was not able to control my bunch.

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BURKOWITZ: May it please the court, let the record show that all the members of the court are present; all the members of the prosecution are present with the exception of Colonel Denson and Mr. Pinter who are absent on business for the prosecution; all the members of the defense are present except Colonel Wilson, Major Oeding and Mr. Hall who are absent on business for the defense; all the defendants are present with the exception of Oswalt, Penz, Schreiber and Olschewski who are in the hospital and whose interests are being taken care of by their respective counsel, and Keiling who is in conference with his counsel.

If there are any spectators in the court room who expect to be called as witnesses they will please leave.

PRESIDENT: Continuation of direct examination, Mr. McKay?

WALTER PAUL ADOLF NEYE, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Cont'd)

QUESTIONS BY MR. MC KAY:

Q Mr. Neye, going back to the incident you were describing before the recess about the soup, will you now describe for the court the actual steps of distributing the soup among the prisoners in your wing of Block 7?

A I issued the food in front of the block and inside the block also. During bad weather I issued the

food inside the block but I learned my lesson quickly. By issuing the food inside the block my prisoners cheated me too often. I had the prisoners stand in formation outside the block in rows of five. I had to be tremendously watchful, which I couldn't do by myself, and I had to post two men as guards in those corners through which the prisoners would sneak in or sneak out in order to get food twice. And sometimes they were not standing in ranks right so that I could not look over the situation and then a bad word would be said or a slap in the face would occur.

Q Will you describe just how you administered those slaps in the face?

A With the open hand.

Q What was the nationality of the prisoners who lived in your wing of Block 7?

A All nationalities.

Q What do you mean by that?

A Pole, Russians, Czechs, Frenchmen, Greeks, Germans.

Q How many Germans, prisoners, actually lived in your wing?

A A hundred twenty to a hundred fifty.

Q How much soup did you distribute to each prisoner at one time?

A Three quarters of a liter.

Q And how did you give them that soup from the kettle?

A I had a three-quarters of a liter ladle, and that's the way it was done (indicating). These 800 figures were fed by me within fifteen to twenty minutes.

Q How long were you allowed to have to distribute the soup to the prisoners in your wing?

A In the evening I could take hours to do it; I had plenty of time to do it. But at noon-time, hardly forty-five minutes. And in the morning everyone slept as long as he felt like it and it had to be done in a rush. In other words, who got there early got something and who got there late did not get anything.

Q What time did the prisoners in your wing get up in the morning?

A 5:40.

Q And what had to be done by those prisoners before they fell out for roll call?

A In the morning roll call was discontinued in Flossenberg. The prisoners got up--the camp eldest sounded the whistle from the roll call square. Everyone got up and then they went over to the lavatory to wash up, if they washed up; the largest percentage did not wash. That explains the uncleanliness of the prisoners. Lice came up, and dangers for us all existed, dangers such as fleck fever.

Q You stated that a part of your duties as room orderly was to look after the hygiene of the prisoners; will you explain to the court what you mean by that?

A I carried out a delousing check and a check up on the cleanliness of the prisoners once in two or three days. When there was good weather I had them fall out in front of the barracks; if it was bad weather I had them fall out to the lavatory and had them strip down naked. Then the prisoners filed past me. I had a big lamp and I would check them under the arms, around their genital organs, and around their buttocks to check whether they had lice or not. That would take me about thirty to thirty-five minutes. Whoever had lice I would take down their number and would stand them up in a corner some place and tell them, "Wait there. I will take you down later to the washrooms to be deloused." But there were many unreasonable prisoners who would sneak out or go back to the sleeping quarters and go to bed and start sleeping, and that was very bad because they slept with two or three prisoners in one bed and would go to sleep with the lice on them and whoever did not have any lice got lice because of the unreasonable prisoners who had them. And the same thing with prisoners who were dirty--had dirty necks or dirty ears. We would talk to them and tell them, "Go and wash." Usually it was done in a well-meaning fashion, but that did not help always and then they received--then if you would yell at them, or slap them in the face, then they would go.

Q Where were the prisoners taken after it was found that they had lice?

A I usually took them to the bath. There they bathed and received new clothes, and the old clothes were taken to the disinfection section.

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Q Explain to the court what would happen when prisoners refused to go for disinfection.

A Refuse? That was just the unsensible thing. I had to practically force the men to go down there. That was just the sad thing in the camp, that these people did not use any common sense, that they probably figured that lice would keep them warm or something like that.

Q Now, when would these examinations for lice usually take place?

A In my day room, in the block.

Q But what time of day, usually?

A In the evening between 2000 hours and 2100 hours.

Q Now, will you explain to the court just what was done to clean up the block in the morning after the prisoners fell out to go to work?

A I have to mention here that during the last months the block was not completely empty. Because the camp was so over-crowded, I had 100 to 120 sick prisoners who were absolutely not capable of doing any work in the block who would lie in their beds during the daytime and remain in the block. I asked those people, the ones who were a little bit stronger yet, to help me clean up the block. With these people I cleaned up the block and reimbursed them at night with a liter of soup, surplus food.

Q Where did you get this surplus food?

A It was organized among us prisoners, among the block eldest, that each block eldest would have 50 to 80 liters of soup left after the regular ration had been issued to each prisoner. Everything that was necessary in the block, such as brooms, mops, pails, and kindling wood, had to be scrounged by the prisoners; in other words, it had to be stolen. The staff of the SS headquarters did not issue us any such things. Prisoners who would help us to get hold of such things, in other words prisoners who would bring back things from outside of the camp back to the camp, would be reimbursed for that with extra soup because the prisoners could not afford to get caught by the SS bringing back such items; if they would get caught, they would receive several stick beatings.

Q Will you explain a "stick beating" to the court?

A The ones I received?

Q Yes.

A My first beating I received by the camp commander Koegel and the adjutant Baumgartner when I returned from Krondorf. I was to be sent to the SS unit Dillewanger.

Q What was that unit?

A So far as I know, and from what I have been told, the SS unit Dillewanger was a unit that fought the guerillas in Russia and burned everything they could get hold of. I mentioned to the commander Koegel that I had an expel paper from the German armed forces and the commander Koegel replied about the following: "You red dog, you dirty low-down swine, you don't want to."

(Neye - Direct)

Whereupon the commander Koegel and Baumgartner, and another man who is present in the dock here as an accused--however, who did not beat me--kept busy 15 to 20 minutes beating me in the face. My scars are still showing.

Q Mr. Neye, will you explain to the court why you would slap prisoners when they would do something wrong instead of turning in a report on them?

A I had seen cases in this camp during the four weeks that I was a room orderly that if I had turned in a report on those fellow prisoners, Baumgartner would not have thought of anything else but string the man up right away. They were mainly thefts of bread among comrades, but carried out in the most loathsome way that you could think of. If the prisoners had stolen in the warehouse or from the SS, or out of the vegetable cellar, it would never have been missed, but they stole only from those who were weak and sick.

Q Mr. Neye, when did you leave the main camp of Flossenberg proper?

A I left Flossenberg March 16, 1946.

Q And where did you go?

A To Leonberg near Stuttgart.

Q Was Leonberg an outcamp for Flossenberg?

A Leonberg belonged to Natzweiler.

Q How many prisoners went along with you from Flossenberg to Leonberg?

A Thousand prisoners.

Q Were you ever in the outcamp of Ganacker?

A No.

Q Were you ever in the camp of Landau?

A Landau, by the Isar River, yes.

Q Will you explain to the court the connection between Camp Landau on the Isar and Camp Ganacker?

A Yes. As I mentioned before, I left Flossenberg March 16, 1945, and went to Leonberg near Stuttgart. We could not remain long there because of the approach of the Americans. We arrived in Gauffring on the Lech River after having traveled partly on foot and partly by train. We could not remain there for long, and left Gauffring on April 8, 1945, and on April 12, 1945, after foot-marches and traveling by train we arrived in Landau on the Isar River. I lived there with those thousand prisoners with whom I had left Flossenberg.

Q Did you ever know a prisoner by the name of Silverberg?

A No.

Q Did you recognize the witness Silverberg when he testified in this court as being with you anywhere?

A That's what I just wanted to clear up because I was present. We stayed in Landau on the Isar River about ten days, and we were on a large meadow which was enclosed by a barbed wire. Small huts made out of earth had been put up there which were about two and a half meters long.

If you have the camp in front of you, on the right hand side on a free spot in the woods were round O.T. huts, meaning "Organization Todt", and those shacks were not occupied, they were empty. And on April 18 or 19 prisoners from the camp of Ganacker came to our camp, Landau on the Isar River, and three or four days later I got acquainted with the witness for the prosecution, Silverberg.

Q What was the nature of that acquaintance with the witness Silverberg?

A Silverberg drew my attention twice, severely. One evening the prisoners returned from the airport where they had worked and I had the duty of a supervisor so that the distribution of food could be handled without difficulty. When I went to the kitchen, which was in one of these round dirt shacks as I have described before, I saw a sick Jew. He called me and he said, "Block Eldest, I didn't get any food yet." But I knew that that wasn't correct because the medical personnel had to take the food to the sick people. I said, "Who else is sleeping with you in your room?" He mentioned about six names to me and among these, Silverberg. I then looked for those prisoners who were sleeping in his room and I asked who had gotten this food for this man. After a brief back and forth, I found out that Silverberg received this man's food from the kitchen. I then yelled at Silverberg and then I told him, "Get going, you dog!" And then I got another issue of food for this prisoner

from the kitchen and sat down and waited until he had finished it. On April 28--it could have been also the 27th, I'm not quite sure about that--when we marched off when we had to leave the camp because of the approaching Americans, we all were in formation ready to march off. Everyone had received half a loaf of bread and about a liter of bread soup; the sick prisoners had been collected because they were to be driven off by car. Whether one of the prisoners had been forgotten, I don't know, but there was a sick prisoner lying under a tree and you could say that he was in agony (indicating). There was a big pile of bread for the people who were to march off. I saw the sick man at the same time and saw that he did not have any food. I took one loaf of bread from this pile and gave it to the sick man with the words, "Be brave, Boy, eat your bread. We will be free soon." And I left, and after two or three minutes I heard some yelling. I went to that spot where the yelling was coming from, and Ernst Jaeger was standing there--the man who was a witness here today--and a Czech, and Jaeger says, "This swine here took the bread from this sick man." Silverberg, having caught my attention once before, got me so enraged that I beat him up good and proper.

Q Do you recall the number that Silverberg gave for his number in the camp of Flossenburg?

A I did not know Silverberg in Flossenburg.

(Neye - Direct)

Q Well, do you remember the number he gave when he was on the witness stand?

A Yes.

Q What was that number?

A (Referring to papers) 46557.

Q During the recess of this trial, have you ever had an opportunity to examine the camp rolls which are Prosecution's Exhibits 12 to 19 inclusive?

A Yes. I looked through them during the past eight days.

Q Did you check the number which you have just repeated as far as the prisoner is concerned to see what name the prisoner had in the camp rolls?

A Yes.

Q I now hand you a book which has been marked Prosecution's Exhibit No. 16. I call your attention to the number 46557, and ask you to tell the court what name you find following that number.

(Prosecution Exhibit No. 16 was handed to the witness.)

A (Referring to Prosecution Exhibit No. 16) The prosecution witness upon examination by my defense counsel stated that he had had the number 46557 in camp, Record, page 1999. Under this number I find the name Haas, Arnold; Hungarian, born on November 24, 1929, in Munkacs.

Q During the past eight days have you made a careful examination of the camp rolls to find the name of Silverberg listed?

A No, I only looked up this number, the one he gave. Without a doubt, the name Silverberg will be

contained therein many times because there were many Jews there during the last period.

Q Can you give the court an idea of the number of prisoners that were with you at Landau who were of Jewish origin?

A The largest percentage.

Q Now, during the time that you were at Landau and after these prisoners arrived from Ganacker, how many prisoners actually died there?

A Seven.

Q Do you know what caused their death?

A Yes.

Q Will you explain it to the court?

A Three prisoners were shot to death by planes during an air raid while working on the airport. The other four ate weeds or other rotten stuff and died from that. I think their stomachs must have bursted. I then on various occasions took these men and placed them in front of all the others and the camp eldest was there and we again told all of these prisoners to be sensible, to use their heads, and not to eat rotten stuff or any such stuff that killed their comrades. And those seven prisoners were buried by me personally with four otherprisoners, not all in one day but on different days. Silverberg has not buried a single dead man in my camp, Landau on the Isar. It is possible that he buried people in Ganacker, but never while he was with me.

(Meye - Direct)

Q Were you ever actually in Ganacker yourself as a prisoner?

A I picked up two sick prisoners in the Ganacker camp, with a car.

Q But were you ever actually there as a prisoner yourself?

A No.

Q Will you explain to the court how far Camp Landau is from Camp Ganacker?

A Approximately four to five kilometers.

Q Will you explain to the court whether prisoners from Landau went to Ganacker - to work?

A Yes, of course, to the airdrome.

Q How long did you remain in Landau after these prisoners had arrived from Camp Ganacker?

A Approximately eight to ten days.

Q And from there where did you go?

A Then we went for our last march. We were on the way for about two and a half days when the Americans came.

Q What happened to the prisoners when the Americans came?

A The largest part had escaped. We were not together any more, all of us. Some went here, some went there, a few hundred went there and a few hundred went this way (indicating). I myself took off with about twenty other prisoners because we did not know what the SS was going to carry out yet.

Q During the time that you were in Flossenburg,

did you ever beat a prisoner so severely that he died?

A No. I never went that far. I still remained a human being.

Q When you were at Camp Landau, did you ever beat a prisoner so severely that he died as a result of it?

A Neither.

Q Will you explainto the court the situation as far as rumor was concerned in the camp whenever a prisoner killed a fellow prisoner?

A I know of four cases that happened during the time that I was in Camp, and I am ready to describe them.

Q Well, will you explain to the court just what reputation the people had in the camp that were involved in those particular incidents?

A People who had such a reputation, such as camp eldest or capos or block eldest,--well, I have to talk about my case. There was a camp eldest in the camp of Ravensbrueck who was under such a protection of the SS that prisoners hanged him during daylight in a wooden shack. If a block eldest mistreated prisoners or--under mistreatment I understand always beating with a club and kicking with the feet (indicating)--he could not keep his position for long. It was impossible forhim to stay in that position for a long time. Those people were diminished themselves; they were sent to certain stations where things were tried out, as Dachau or Auschwitz, but such elements were annihilated. I am ready to give you names of people who acted that way; those people are known.

Q Will you explain that to the court?

A In Flossenburg there was a capo by the name of Rochel--

MR. BERKOWITZ: If it please the court, I am not interested in what these other people did. It's immaterial what Rochel did. If he has any testimony concerning the accused it will be material, otherwise this testimony is objected to as irrelevant and immaterial.

MR. MC KAY: If it please the court, I object to this attempt on the part of the prosecution to force this particular accused to testify against other men in the box. This witness is entitled under the rules of military government courts that govern this court to have the entire story of his life in the concentration camp put before this court so that his conduct can be judged in the light of thecircumstances in which he as an accused found himself. What happened to other prisoners during the time that he was in camp was consciously on his mind and must have governed his conduct in the camp. There is no other way that you can accept such testimony. For that reason I think that the question and the answer is entirely proper. The court can give it such weight and relevancy as it deems fit in its final conclusion of this case.

PRESIDENT: Mr. Berkowitz, anything further?

MR. BERKOWITZ: If it please the court, I am not forcing the witness to testify about anybody; I am not asking him any questions, nor am I objecting to anything he may testify about himself but I do object

to his testimony against people who are not defendants in this case and whose actions have no relevancy to the trial.

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed at 1630 hours.)

(Whereupon the court reconvened at 1645 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, let the record show that all members of the court are present; all members of the prosecution are present except Colonel Denson and Mr. Pinter who are absent on business for the prosecution; all the members of the defense are present except Colonel Wilson, Major Oeding and Mr. Hall who are absent on business for the defense; all the defendants are present with the exception of Oswalt, Penz, Schreiber, Olschewski, and Buddensieg who are absent in the hospital and whose interests are being taken care of by their respective counsel, and Keiling who is in conference with his counsel.

MR. MC KAY: The accused Pawliczek is in the bunker, and Lipinski.

MR.BERKOWITZ: The accused Pawliczek and Lipinski are also absent. Their interests are being taken care of by their respective counsel.

If there are any spectators in the court room who expect to be called as witnesses they will please leave the court room.

PRESIDENT: In the future, the senior defense counsel will furnish the necessary information as to

the status of the accused in the dock to the senior prosecutor at the start of every session.

The objection of the Assistant Prosecutor, Mr. Berkowitz, is overruled. The court feels that the indicated evidence will have a tendency to show the actual conditions as they existed in the camp.

MR. MC KAY: Will you read the question please?

(Whereupon the reporter read as follows:

"Question. Well, will you explain to the court just what reputation the people had in the camp that were involved in those particular incidents?

"Answer. People who had such a reputation, such as camp eldest or capos or block eldest,--well, I have to talk about my case. There was a camp eldest in the camp of Ravensbrueck who was under such a protection of the SS that prisoners hanged him during daylight in a wooden shack. If a block eldest mistreated prisoners or--under mistreatment I understand always beating with a club and kicking with the feet (indicating)--he could not keep his position for long. It was impossible for him to stay in that position for a long time. Those people were diminished themselves; they were sent to certain stations where things were tried out, as Dachau or Auschwitz, but such elements were annihilated. I am ready to give you names of people who acted that way; those people are known.

"Question. Will you explain that to the court?

"Answer. In Flossenberg there was a capo by the name of Rochel--")

QUESTIONS BY MR. MC KAY:

Q Proceed from the place you stopped where you told the court about the capo named Rochel.

A If such capos or block eldest infringed laws against their comrades they could not hold their

positions. It was impossible. The capo Rochel chased fellow prisoners into the wire of the SS. He also beat them to death. On the other hand, the ober-capo Haessler wrote constantly reports about his fellow prisoners, reports that were not true, whereupon these prisoners would be punished in a beastly way in the orderly room by the protective custody camp leader Fritsch and the roll call leader Kuebler. And one day they were brought to a fall by letters without signatures that went to the SS. They were sent on single transport to other camps, to Auschwitz, whereupon people there knew immediately that those men were traitors. I only know this from hearsay, but they were sent there as guinea pigs. I have described the two cases of Ravensbrueck. There was another man yet, the hunchbacked Hutterer from Austria. He was sent to Dachau and I know this case exactly because I was sent there to be a guinea pig also. Those are cases during which I was present, cases that happened to me. And I can say I know my sixteen former fellow prisoners and there is no killer present among them. If I knew there was I would be truthful about it and say so. I could never stand capos or block eldests who would commit such violations and that's why I would be beaten up regularly in other camps or in the camps that I was in.

Q Were these facts about other capos and block eldests matters of common knowledge among the prisoners in Flossenburg?

A Thousands of the old prisoners from Flossenburg must know about Rochel and Haessler, and they know it too.

(Neye - Direct)

Q Mr. Neye, will you tell the court how long you have been a prisoner in concentration camps?

A Six years, with an interruption of about four months after my first release and with another interruption of about three months when I was a fugitive in Berlin when I met Goltz for the first time. I was sent to the camp the second time because the Gestapo requested me to do something which I would have never done.

Q What was that?

A I was to denounce people in the armament factories and hand them over to the Gestapo.

Q Did you come to Flossenburg with Goltz?

A Goltz arrived later than I did.

Q Will you explain to the court just what your physical condition was during the time you were a prisoner in Flossenburg from the period of January 1, 1942, until March of 1945 when you left?

A I was so severely sick in Flossenburg and was so weak that I already had written a farewell letter to a comrade of mine which he was supposed to hide well until he would succeed to reach liberty and hand it over to my wife. But otherwise I was well supported by my next of kin. I received packages from my wife and my mother and from my parents-in-law, and as far as food was concerned I got along pretty well since these things were sent to me.

Q Will you explain to the court what you did with these pac ages that you received?

A I divided my packages among fellow prisoners whom I liked and with whom I got along well. I did not make any exception as to whether they were Germans or Russians or Poles; that didn't matter, as long as they were comrades and human.

Q You have stated to the court on several times that the conduct of fellow prisoners was not that which you looked upon with favor. Will you explain that?

A I can only emphasize that during the time that I was a room orderly those four weeks, that these men always stole from their weak and sick comrades and did not go and steal in those places where they should have stolen. Everything was prohibited in camp--I can't think of anything that was allowed to do. Every block eldest and every room orderly who had a little bit of responsibility told them time and time again, "Be careful. Have empty pockets. Don't get caught by the SS." But not only the individual would be punished, the whole block would be punished. And that was the law among us prisoners; those who drew attention had to be punished because everyone had to suffer for it. We would either have to stand for hours, or else our food ration would be cut. The SS always had something ready for us. It was terrible. The camp was so crowded that you couldn't turn around without bumping into someone else. There were three and four people in one bed, because the camp was so overcrowded.

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court recessed at 1700 hours.)

2nd Copy

CA/GI 13

Court Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG PAGES 3414 - 3485

Final Duplicate Copy

Case No. Prosecutor

*~~Summary~~ *~~Intermediate~~ Military Court. Defence Counsel
*General

Place Dachau, Germany Interpreter

Date 11 September 1946 Reporter

*~~Members of Court~~

WITNESSES:
NEYE, Walter Paul Adolf
PHILIPP, Prince of Hesse

Accused Friedrich Becker, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 1? JUNE 1946

11 SEPTEMBER 1946 0900 hours to 1700 hours
Pages 3414 - 3485 incl.

TESTIMONY

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
MEYE, Walter Paul Adolf		3414 3469			
PHILIPP, Prince of Hesse	3431	3454	3462		3463

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[illegible] RACIAL, GERMANY

11 SEPTEMBER 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

DR. SEIDL: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Oswalt, Pens, Olschewski, Schreiber and Buddensiek, who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom?

WALTER PAUL ADOLF NEYE, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Mr. McKay?

MR. McKAY: I have completed my direct examination of this accused. You may cross examine.

CROSS EXAMINATION

QUESTIONS BY MR. BLEWETT:

Q Neye, you first came to Flossenburg in September, '44, is that correct?

A Yes.

Q You testified you remained there for 11 months, the first time?

A Yes.

Q How were the prisoners treated in Flossenburg during that time?

A You mean as far as I am concerned?

(Neye-Cross)

Q I asked how were the prisoners treated in Flossenburg at that time?

A I am asking you, do you mean as far as I am concerned? How I treated the prisoners?

Q I asked you how the prisoners were treated in Flossenburg.

A You mean as far as I am concerned?

Q No, I do not mean as far as you are concerned.

A The prisoners were treated as it was customary up until the liberation.

Q How was it customary to treat prisoners in Flossenburg?

A I ask the court to make a decision here about whether or not the prosecution is trying to stamp me here as a traitor when I speak.

PRESIDENT: One of the members of the court requests that the last question be read.

(Whereupon the question was read by the reporter.)

PRESIDENT It is within the rights of the prosecution to cross examine you on anything that has come out on direct examination. If the question is not clear at any time you can request an explanation. Repeat the last question for the benefit of the witness.

(Whereupon the question was read by the reporter.)

THE WITNESS: As far as the SS was concerned, poorly.

QUESTIONS BY MR. BERKOWITZ:

Q What do you mean by "poorly"?

A Beaten and illegal arrests because of trivial details, and people were out for months in a punishment division for small misdemeanors which common sense would tell you should not be punished.

Q Were you in the punishment company?

A Yes.

What were the conditions in the punishment company?

Horrible things.

Q Tell us about it, please.

A The punishment company in which I was was set up by the SS leader Himmler in Berlin. The punishment consisted of regulations which made us carry a stone of 80 to 90 or 100 pounds on our shoulder or on our back and to perform a "nigger dance" with this stone on our back in a circle, even though it didn't have any purpose.

Q Where did that punishment company operate?

A The punishment company worked on the cliffs in quarry 3 and in quarry 1.

Q You worked in the quarry too, aside from the punishment company, did you not?

A Yes, but not because I was being punished I worked in the quarry.

Q What were the working conditions like in the quarry?

PRESIDENT: Colonel Wilson?

DEFENSE COUNSEL: If the court please, I have received a note that a prospective witness is in the courtroom. I do not know him personally but I would like to have him out. This prospective witness is supposed to be a man named Fitting.

(Thereupon a spectator in the courtroom arose.)

PRESIDENT: Are you a prospective witness, Mr. Fitting?

MR. FITTING: Not for today.

PRESIDENT: It does not make any difference whether it is today or any other time. You have no business in here.

(Thereupon Mr. Fitting and the defense counsel left the courtroom.)

PRESIDENT: The court understands that that man Fitting is a prospective defense witness?

MR. McKAY: I have never been informed of it. Sometimes people who have been in Flossenburg are recognised by the accused and they ask us to interrogate them as possible witnesses. I think that is what happened here.

PRESIDENT: In other words, Mr. McKay, as far as you know the defense had not planned on calling this particular person. Is that the idea?

MR. McKAY: No, sir, not as far as is within my knowledge.

PRESIDENT: I wish you would confer with Colonel Wilson when he gets back into the courtroom and let the court know.

Do you have something to say, Dr. Engelhorn?

DR. ENGELHORN: As far as I know, Colonel Wilson wants to call this witness Witting for the accused Mohr.

PRESIDENT: The court desires to hear from Colonel Wilson. Proceed, Mr. Berkowitz.

MR. BERKOWITZ: Will you repeat the last question, Miss Reporter?

(Thereupon the last question was read by the reporter as follows: "What were the working conditions like in the quarry?")

THE WITNESS: The granite boulders were dynamited and bored and tombstones and finished stone pieces were made there.

QUESTIONS BY MR. BERKOWITZ:

Q Were the prisoners who worked in the quarry well fed?

A Yes, in the quarry, if you weren't in the punishment company. At breakfast you got 120 grams of bread. Margerine was shot on the bread with an insecticide shooter. There was also a half a liter of vegetables and a few potatoes in the skin and they were usually rotten.

Q Did the prisoners work hard in the quarry?

(Mayo-Cross)

PRESIDENT: The court feels that you had better clarify that last statement as to whether or not that was the food given the ordinary prisoners in the quarry or members in the punishment detail. You talked about both of them.

THE WITNESS: We who were in the punishment company got even less. First of all, we didn't get any breakfast, and perhaps one quarter liter vegetables per day. The prisoners who worked in the punishment company who were under the order of Himmler died like flies.

QUESTIONS BY MR. BERKOWITZ:

Q Did the prisoners who worked in the ordinary details work hard?

A Just like any other individual prisoner. You could stand the work if the work was performed at a moderate pace. Otherwise, you couldn't.

Q How was the work performed there?

A Early in the morning the work started at seven o'clock and the work stopped at six o'clock in the evening.

Q Who was in charge of the quarry?

A When I was there, First Sergeant Gruber. He died in Russia.

Q Who was in charge of the details at the quarry?

A First Sergeant Gruber.

Q Was he the only man in the quarry?

A No, there were a few others there, SS people who backed him up.

Q Were there any capos in the quarry?

A Yes, there were capos.

Q Were there any guards at the quarry?

A The only guards inside the quarry were the work detail

leader and two of his subordinates. The guards were outside the wire enclosures.

Q Where were the guards stationed?

A Outside the wire enclosures in the guard towers.

Q Did you ever see any men shot by the guards in the quarry?

A Yes.

Q How many times did you see that?

A Twice.

Q Did you ever see any men beaten in the quarry?

A Yes.

Q Did you ever see any men beaten to unconsciousness in the quarry?

A Yes.

Q Did you ever see any prisoners so badly beaten and had to be carried away from the quarry?

A Yes.

Q After working in the quarry you went to Krondorf, is that right?

A Yes.

Q Where did you work after you came back from Krondorf?

A When I came back from Krondorf I worked in the work detail Stich. There the stone cutters' walls were being cemented and later on the Messerschmitt factory was set up there.

Q Was that also in the quarry area?

A No, this work detail was around three or four kilometers away from the camp.

Q Who was in charge of that detail?

A I can't remember the name for the moment but the SS man who was in charge of this detail is now in the sonderlager, the special camp.

Q How were the prisoners treated on this commando.

A I was in the work detail in Stich about two months and the people who worked in that work detail were treated above reproach. They got enough food there also and we got this good food because the capo carried on black marketing with the kitchen personnel and we got 100 to 150 extra liters of food through him. If a prisoner had earned it, he could eat two or three liters of food in a day in the commando at Stich when I was there.

Q Where did you work after you worked at Stich?

A In the railroad station.

Q What kind of work did you do at the railroad station?

A Loaded up stones, loaded up coal, potatoes and bread. When the bread was being unloaded a lot of bread fell under the cars.

Q What do you mean by that?

A There was a lot of it that was picked up, stolen, and no prisoner was hurt by that, only the SS from headquarters.

Q How were the prisoners treated on this detail?

A I can't say that it was more than a man could stand at the railroad station either. Of course, when a prisoner came to the attention of an SS man who caught him when he was trying to steal or black marketing, then he would have bad luck and be beaten.

Q While you were at the railroad station did you have an opportunity to see arriving transports of prisoners?

A Yes.

Q Will you tell us how these prisoners who arrived on transports were handled?

A When a transport arrived in the railroad station in Flossenburg it arrived with a lot of confusion, a lot of scolding, and it was unloaded, but it would be impossible in the full meaning of the word for anyone to have been beaten because the entire

(Haye-Gross)

population was out and was watching everything. In this respect the SS were careful. Only in the camp itself and in the quarry were things done in a terrible way.

Q What do you mean, "were done in a terrible way in the quarry and in the camp"?

A I have already told you about that. I have already said it.

Q Do you mean that in the camp there was a lot of beating?

A Yes.

Q Did you see any executions in the camp?

A Yes.

Q Did you see any prisoners hung by their arms in the camp?

A Yes, I was hanged up by my arms myself a few times.

Q Will you demonstrate how that was done?

A These persons were carried out by the SS personnel from Headquarters who were authorized to do it, Kuebler, Baumgartner, and Fritsche, Aumeyer, if one prisoner was supposed to have betrayed another. They put a strong stick in back of the prisoner, pulled it through his elbow cavities and he was tied onto a tree and as the prisoners went by, he would be rocked back and forth.

PRESIDENT: Have the witness demonstrate that again. Stand up and demonstrate it again.

THE WITNESS: With the handle of a shovel they put it through between your elbows and your back and they hung you up like this and then he was rocked back and forth. That was a pleasure for the SS when the prisoner rocked back and forth.

QUESTIONS BY MR. ROMWITZ:

Q There was also a lot of beating in the camp, was there not?

A Yes.

(Meyer-Cross)

Q You yourself were beaten?

A Yes.

Q Who beat you?

A Kuebler, Fritsche, Baumgartner, Koegel, Gerber and Sumeyer.

Q Is that all?

A A capo also beat me.

Q Who was the capo?

A Kochel.

Q Have you not formerly given information about somebody else who beat you?

A Whether someone else beat me?

Q Yes.

A I have been beaten so often that I have to stop and think about whether there was anyone else who beat me.

Q All right, think about it.

A My last protective custody leader Bohnhardt.

Q You have a scar on your neck, do you not?

A Yes, I have a number of scars on my neck, also on my face.

Q You got that in the camp, did you not?

A Yes.

Q How did you get that scar?

A Through Baumgartner and Koegel. When I got back from Krendorf Koegel told me that he wanted me to go to Dillewenger. I told the commander then that I had a certificate of release from the army. There were a few bad words tossed around and then the beating began. First of all the cigarette case of Koegel flew into my face and I got this scar from that. Baumgartner gave me this scar (indicating) and Koegel gave me this nose and Koegel gave me the last scar.

scar.

Q Did you not also get a scar from an inkwell thrown at you?

A Inkwell?

Q Yes, inkwell?

A No.

Q Were you ever interrogated by anybody in the Political Department?

A Yes.

Q Who interrogated you?

A I forgot the name. That was a first sergeant in the SS.

Q Have you not previously given information about your interrogation in the Political Department, naming somebody else besides the Hauptscharfuehrer?

A Yes.

Q Who was that?

A It is a lawyer.

Q Have you not previously given information to the prosecution in this case about somebody in the Political Department other than the Hauptscharfuehrer?

A You mean the first sergeant who interrogated me?

Q Did you not previously give information to an investigator in this building concerning a member of the Political Department who threw an inkwell at you, somebody other than the Hauptscharfuehrer?

MR. McKAY: That is objected to as repetition. It is further objected to as an improper way of impeachment. If the prosecution have a prior statement that this man has made to them, they are entitled to bring it to the court and I am entitled to find out under what circumstances such statement was given.

MR. BERKOWITZ: If it please the court, it is not

repetition because the witness has not yet answered the question. In the second place, I cannot introduce the statement by the witness until he has denied that he made it or stated something contrary to the facts therein contained. If he makes the denial or makes statements contrary to the facts in that statement, then the statement may be introduced to impeach him and at that time cross examination may be conducted by the defense counsel.

PRESIDENT: The objection of the defense counsel, Mr. McKay is overruled.

Will you repeat the question, please?

(Whereupon the last question was read by the reporter as follows:

"Did you not previously give information to an investigator in this building concerning a member of the Political Department who threw an inkwell at you, somebody other than the Hauptscharfuehrer?")

THE WITNESS: Threw an inkwell in my face?

QUESTIONS BY MR. BERKOWITZ:

Q Yes.

A No.

Q You did not say that?

A No.

Q Very well. You have just testified there was a lot of beating in the camp, a lot of punishment in the camp, and executions. As a matter of fact, there was a terror in the camp, was there not?

MR. McKAY: That is objected to as argumentative.

MR. BERKOWITZ: If it please the court, I am not arguing with the witness.

PRESIDENT: The reporter will repeat the last question.

(Whereupon the question was read by the reporter.)

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

QUESTIONS BY MR. BERKOWITZ:

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Q You as a prisoner in the camp, were you kept in fear?

A You mean me personally?

Q Yes.

A I was too much on the ball. They never succeeded that way with me.

Q Why were you punished?

A Because of misdemeanors.

Q Do you mean to say you were on the ball and at the same time committing misdemeanors?

MR. McKAY: That is objected to as argumentative in form.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q A prisoner was constantly under scrutiny, was he not?

A No, not always.

Q Was a prisoner allowed to come and go and do as he pleased?

A Not that either.

Q You say prisoners were beaten?

A Yes.

Q You say prisoners were punished?

A Yes, when they came to somebody's attention.

Q And the prisoners always had to be very careful not to come to somebody's attention. Is that correct?

A That's right.

Q And he was kept in fear and terror in case he would come to somebody's attention. Is that right?

MR. McKAY: I object to that as argumentative in form.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Is it a fact that prisoners were kept in fear of coming to the attention of anyone in the camp?

(Mayo-Cross)

- [illegible] -

A That's right, because the SS was there, the dangerous ones. As soon as somebody came to their attention there was a big commotion.

Q Now, the camp was operated by the SS, is that correct?

A Only the punishments were up to the SS inside the camp. As far as the rest of it was concerned we had to rely on it ourselves.

Q You did not answer my question. I asked you if the SS operated the camp.

DR. ACKER: I believe there was a misinterpretation.

PRESIDENT: What were you referring to, Dr. Acker?

DR. ACKER: I ask the question be repeated and again translated.

PRESIDENT: Repeat the question, Miss Reporter.

(Thereupon the question was read by the reporter.)

THE WITNESS: Of course. If the SS and the Headquarters had taken the measures they should have taken in regard to food and forgotten to punish people it would have been a sanitarium. Then the prisoners wouldn't have had to rob each other and the unreasonableness among the prisoners wouldn't have increased.

QUESTIONS BY MR. BERKOWITZ:

Q Is it not a fact that the SS got its results through keeping the prisoners under strict discipline and through fear and through starvation?

MR. McKAY: The question is objected to as being argumentative in form.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q How did the SS get their results?

A You are talking about a result here which as far as I am concerned I can't talk about. I say that if the SS had given enough

(Mayo-Cross)

food to us then everything would have been in the best order and then the people would have been left alone. They would have been healthy and they would have taken the greatest dangers, but since that didn't happen, everybody was all shot physically and mentally. For instance, whenever I saw the staff of the Headquarters, the big shots, I would immediately feel sick just to look at them, and that was the way it was with every individual prisoner.

Q Why did you feel sick when you saw a member of the command staff?

A Because I was afraid, because I had a panicky feeling.

Q And what was that panicky feeling? What were you afraid of?

A If I want to put that into clear words, then I said to myself whenever I saw them, "Here come those bags of dirt," or else I said, "The shit birds are on the wing." That's the way I felt it and that's the way I saw it. We had been torn out of a decent life for years at a time and we couldn't get along with each other. Whenever you talked to anone in a friendly manner they would say that you were crazy.

Q You stated a moment ago that when you saw a member of the command staff you were in fear and that was true of all other prisoners. Aside from what you thought of them personally, why were you in fear?

A You mean me?

Q Yes.

A As every prisoner in the camp knows, I was in very bad graces with Headquarters because of my triangle which showed that I was a repeated offender. I was in the camp for the second time and whenever they saw my triangle they were after me, how to get me, and they would always say, "Oh, you like it here, you like to stay with

us," and, "On the outside you couldn't get along, you couldn't do all the things the Gestapo ordered you to do." I couldn't clean the triangle away. I couldn't do anything to the triangle to erase the marks on it. I had to carry it. I really would have got into hot water if I omitted carrying this stripe which showed that I was a repeated offender, like Dr. Diessecke did. Then they really would have been after me.

Q You say this fear which you experienced when you saw members of the staff approach also was a fear of every other prisoner?

MR. McKAY: If it please the court, that question is objected to as argumentative in form because it attempts to put a different connotation on the witness' testimony. He has not stated his fear was identical with the others. If they want to bring that out they must do it by proper questions.

PRESIDENT: The objection is sustained. The question is not clear.

QUESTIONS BY MR. BURGAIT:

Q Is it a fact that a moment ago you stated when you saw a member of the command staff approach, you were in fear and that was true of every other prisoner? Is that a fact?

A Yes, that's right. Baumgartner in this respect was well known. For example, he couldn't ever stand to see a Russian. In that moment the man, Baumgartner, went insane, and whenever a Russian would be sent to the arrest building he usually died. The men carried out executions by musketry and hanging without ever getting an order from Berlin. That's a fact.

Q Prisoners were afraid of the command staff. Were they afraid of the block fuehrer?

A In the last ten months, the last time, most of the block

leaders were decent people.

Q How about the period prior to the last ten months?

A There were some block leaders then who would report you for the slightest misdemeanor that came to their attention.

Q Did the SS block leaders beat the prisoners?

MR. McKAY: That is objected to as being argumentative because there is no showing in the testimony of this witness just what the position of a block leader was, from whom he was drawn for that duty.

MR. BERKOWITZ: I do not quite understand the objection.

MR. McKAY: You said "block fuehrer." This man has never stated that a block fuehrer was an SS man.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Who were the block leaders?

A The block leaders were always SS men.

PRESIDENT: Court will recess for a half hour.

(Whereupon the court recessed at 1000 hours.)

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(Thereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding and Mr. Mac May who are absent on business of the accused, and all the accused are present with the exception of Buddensieg, Oswalt, Penz and Schreiber. Let the record show, may it please the court, that Penz is here so that the absentees are Buddensieg, Oswalt and Schreiber who are sick in the hospital. The interests of these named accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

DEFENSE: May it please the court, the defense requests permission to suspend examination of the present witness and to put on the stand Prince Philipp of Hesse in behalf of certain accused who will be named and to have the examination of this witness continued after the testimony of Prince Philipp is ended. I might say that that has been discussed with the prosecution who I believe are willing.

PROSECUTION: We have no objection may it please the court.

PRESIDENT: The court will grant the request of the defense counsel. The witness will be excused and will resume his place in the dock.

2sp

(Whereupon the accused Walter Nicye resumed his seat in the prisoner's dock.)

DEFENSE: May it please the court, let the record show that Mr. Mac Kay has returned to the courtroom.

The defense calls as its next witness Prince Philipp of Hesse.

PRINCE PHILIPP OF HESSE, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DEFENSE: May it please the court, this witness is being called in behalf of the accused Haubold No. 17, Mohr No. 28 and Wolf No. 51. The direct examination on behalf of the first named witnesses will be by myself and that on behalf of Wolf by Dr. Engelhorn.

DIRECT EXAMINATION

QUESTIONS BY DEFENSE:

Q Will you please state your name?

A Philipp, Prince of Hesse.

Q Will you please explain to the court whether that is your legal name or a title.

A The name is my right name. It was originally a title, but the Weirmar Republic changed it into the real name.

Q Do you understand English?

A Yes.

Q Do you prefer to testify in English or in German?

A I would like to testify in German.

Q Will you please tell the court your present residence?

A At the present time I am interned at number 19 in Darmstadt.

(Prince Philipp - Direct) Phil -

Sep

Q Are you then a prisoner in the hands of the American Army at this time?

A Yes.

Q Are you a prisoner of war?

A I am a civilian internee.

Q Were you a prisoner in the Flossenburg concentration camp?

A Yes.

Q Please tell the court at what time.

A From September 12, 1943 until April 15, 1945.

Q Will you please tell the court why you were confined in Flossenburg.

A The reason was not given to me, but I was able to determine that it was for political reasons.

Q Were you given any trial before your internment?

A No.

Q Will you please describe the circumstances immediately leading up to your internment.

A On September 8, 1943 I was arrested in the Headquarters of the Fuehrer.

Q Please continue.

A I was arrested that very same night. No reason was given to me. I was transported away immediately to Koenigsberg, then to Berlin and then to Flossenburg on the 12th of September.

Q Were any instructions given you or was any information given you as to how you might expect to be treated in Flossenburg?

A Yes, when I was transported from Koenigsberg

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to Berlin. I was received there by General Mueller. Gruppenfuehrer (general) Mueller told me that he had orders to tell me that I would be a different man from now on, that I would receive a different name and that I would have to forget all about who I had been so far, the past should be forgotten, and I should never mention to anyone who I had been or what kind of life I had been leading. Everything would have to be taken away from me, my clothes or my papers that could disclose my identity. I would be taken to southern Germany. I would have a life that I could bear and when I should get into contact with other persons I was never to have any political conversations and that I would not be allowed to ever talk about the past. He then assuredme that I would be probably allowed to listen to the radio and read newspapers. When I again asked him for the reason of my arrest he told me that he could not disclose that because he didn't know it himself. My declarations were then taken away from me as well as the Party badge and because I held an honor rank in the SA, the uniform was taken away from me also. That meant that I had been expelled from the Party and the SA.

Q Will you describe the circumstances of your reception at Flossenburg please.

A I was driven in two automobiles with six guards in civilian clothes through Germany to Flossenburg. I did not know where we went. All I saw when it was getting dark that we went through a side valley where I saw barbed wire and spotlights. I did not know where we were. We then drove through the barricades and into a small courtyard up to the door of a low building

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A high SS leader was standing there and it was later determined he was the commandant of the camp. He did not say anything. He just looked at me and then he said, "Follow me". We stepped into the corridor of this building. It was a long corridor. We went all the way down to the last door. This door was opened and it was just a small common prison cell and then the door was closed behind me.

Q By what name if any did the camp commandant identify you to the guards at this time?

A I have to come back there to the conversation I had with General Mueller.

Q Please do so.

A When Mueller told me that I would be a different man from now on, he also told me that I would receive a different name. He wanted to give me the name Weirberg because this name was the name of a family which I was acquainted in Frankfurt. I asked him to give me a different name. He granted that request, whereupon I received the name Wildhof. I asked for this name because I did not know what the future would hold for me nor what my fate would be. I chose this name because my father used this name before the last World War when he traveled incognito, and I chose this name for the simple reason that if something should happen to me, my family would always know it was I.

Q When you entered the arrest building and went to your cell did you turn to the left or the right as you went down the corridor?

A To the right.

Q Will you please tell how long you remained

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in that first cell to which you were assigned?

A I can't say exactly but if I remember exactly, two to three days.

Q Coming back to the matter of the name under which you were known, have any other members of your immediate family been confined in concentration camps?

A Yes.

Q Will you please explain.

A If I am informed right, my wife was sent on September 22nd to the concentration camp Buchenwald.

Q What year please?

A 1943.

Q Have you heard what happened to her there?

A She was wounded severely through an air attack on Buchenwald and died on August 28, 1944 because of an amputation, loss of blood and weakness.

Q Where were you moved from your first cell?

A I was taken next to a room next to the guard room.

Q Please describe that room briefly.

A The room was as large as two cells. There was a bed, a table and a closet in it and a sink. There was a window in it facing the rear from which you could see a hill and another building to the left front.

Q Could you see into the corridor?

A No.

Q What was the path into and out of your cell?

A You had to go through the guard room.

Q Now, how long were you confined in this last mentioned cell?

A Until I was transported away from Flossenburg

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on April 15, 1945.

Q While you were there what were the circumstances of your confinement

A During the first two days I had a radio there as I had been assured I would have in Berlin. Then it was taken away from me and for five months I stayed without any information. I did not receive any kind of information or letters from the outside. I was in the dark about my family. The only news that I received was news, oral news given to me by the commandant who told me that my brother had been killed in action in Italy in November '43 and that a sister-in-law of mine had been killed during an air raid on Frankfurt.

Q Who was the commandant?

A Obersturmbannfuehrer Koegel. (Lt. Col.)

Q Will you please describe to the court the nature of your association with other prisoners?

A It was strictly prohibited for me to associate with other prisoners. I don't think that hardly any of the other prisoners ever saw me;when my room was cleaned I was taken out. Towards the end, shortly before we were transported away by courtesy of one of the guards I got acquainted and got together with Mr. and Madam Schuschnigg but that was kept top secret. The first prisoners I saw was when we were transported. May I correct myself? When I was first able to get contact with them. I was able to see prisoners when I stepped on my bed and looked through the window I could see them on the outside. It was also possible for me during the spring and beginning of summer of '44 to see prisoners because a wooden wall was put up in the courtyard behind which

Sap

I could lie down, so I could get fresh air and through this wooden wall it was possible for me to watch prisoners.

Q Now will you describe the nature of your treatment by the guards?

A I have no reason to complain about the guards. They always showed a lot of understanding for my fate, although they didn't know me personally.

Q While you were a prisoner were you acquainted with a man by the name of Mohr?

A Yes.

Q Do you know his first name?

A Christian.

Q Will you please describe Mohr's treatment of you?

A Mohr always treated me well. Mohr always showed a friendly conduct towards me and proved himself to be a good natured man with a good heart.

Q Did you have any opportunity to observe his treatment of other prisoners?

A I could not see anything with my own eyes because I was sitting in the cell, but I was able to hear conversations in which he was involved in the corridor, and they seemed to be of a friendly nature.

Q Do you know how long after you came to Flossenburg Mohr remained on duty in this building where you were confined?

A If I recall it right, Mohr went on a furlough the end of September because he was suffering from severe rheumatism.

Q What was that date?

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A September '43. He returned around Christmas and then again went on a short convalescence furlough.

Q When did you last see him? By that I mean when did you last see him in Flossenburg?

A If I am not mistaken, it must have been March of '44.

Q Were you--

A I am not certain however. At the present time I can't recall it exactly.

Q You know what Mohr's official capacity or position was when you knew him in Flossenburg?

A He was a guard in the cell building. His superior was Wiese.

Q Were you acquainted with a guard by the name of Haubold?

A Yes.

Q Do you recall his christian name?

A I can't recall his first name.

Q Will you state the nature of your contact with Haubold please.

A Haubold arrived towards the end of my stay in Flossenburg. If I recall, it right, it was March 1945.

Q How did he treat you?

A He always treated me well.

Q Are there any specific incidents of good treatment you received on the part of the guards which you would like to relate to the court?

A Yes. I can only say that Mohr on his own initiative showed various friendly acts towards me. For instance, when he received packages from home, he would give me something. Often he picked me up at

10sp night and took me over to the guard room where the other guards were so that I could read newspapers they had which was actually prohibited.

DEFENSE: A question has been asked as to whether that was interpreted Mohr.

INTERPRETER: Mohr.

DEFENSE: May it please the court, there seems to be a little misunderstanding. My question was directed to either Mohr or Haubold and I would like to ask one question to straighten out which one he is talking about.

PRESIDENT: The court understands then it was Mohr that took him over to the guard room and gave him an opportunity to read these papers. Will you straighten that matter out?

DEFENSE: May I adopt that question by the court and have it translated?

(Whereupon the question was translated into German.)

A Yes, Mohr and later on several others.

Q Could you name some of the others?

A Yes, Wolf, Haubold, Weisenborn and several others whose names I don't recall, but if so requested, I could think about it.

Q Will you please describe to the court the situation as to food during your confinement so far as you could observe -- that is, food of the prisoners?

A I was able to determine through the door which was nailed up and leading to the corridor that Mohr and others issued sometimes SS food to the prisoners. I was able to see that prisoners through my window

llsp

received their second breakfast, those prisoners who policed up the hillside. They ate large pieces of bread on which there were large pieces of margarine.

Q You mentioned a moment ago that sometimes SS food was issued to the prisoners. When SS food was not issued to the prisoners what did they receive so far as you could determine?

A I never saw the food.

Q What sort of food did you yourself receive?

A I received the same food as the SS troops except for some minor specialties that they received.

Q Now, you mentioned a moment ago something about the serving of food out in the corridor but you also testified that your door into the corridor was closed off. Will you explain how you knew anything about what was going on in the corridor please.

A Because I heard him say when he finished the food, "Give some of the surplus food to the prisoners".

Q Who do you mean by "him"?

A The respective man who distributed the food.

Q Were you aware of any happenings in the vicinity of the building where you were confined but outside the building?

A Yes.

Q What?

A At first it was an assumption but later on I was able to determine that executions took place.

Q How did you determine that?

A Because one could always notice that often there was excitement. Then it was quiet.

PRESIDENT: Just a minute. One of the guards will remove Olschewski. The other prisoner will be allowed to go with him.

DEFENSE: May it please the court, let the record show that the accused Olschewski No. 31 was removed from the courtroom on account of illness and that the accused Neye No. 30 assisted him out both going to the bunker and that the interests of both accused Olschewski and Neye are represented by their attorneys remaining in the courtroom.

PRESIDENT: Proceed. Will you read the last question.

(Whereupon the question and answer were read as follows:

"Q How did you determine that?

A Because one could always notice that often there was excitement. Then it was quiet.")

DEFENSE: May it please the court, let the record show that the accused Neye, No. 30 has returned to the courtroom.

QUESTIONS BY DEFENSE (CONTD)

Q Did you complete your last answer at the time of the interruption?

A No, not quite. I repeat then it was quiet. Then you could hear not all the time but mostly that people were entering the courtyard, mostly superiors, and then the people were led past me several times. I could hear them pass the cell. Then you could hear off and on a soft cracking, something like a soft shot being fired. More I was not able to determine.

Q You mentioned that you knew superiors

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ontered the courtyard. How could you determine that they were superiors or what their status was?

A I said apparently superiors entered because I was under the impression that reports were made.

Q About how long from beginning to end would you estimate one of these execution incidents occupied?

A It varied.

Q Would you have some judgement as to an average length of time?

A I don't want to be too explicit because it varied. It always varied according to the number of people to be executed.

Q What would you estimate is about the shortest period you recall?

A It's been a long time ago and I don't want to be too certain about it. If I go according to my memory I should say ten to 15 minutes the shortest.

Q And would you have some estimate as to the longest?

A I should say perhaps not quite half an hour. I can't state it exactly because they did not always return. Evidently they had conferences out there.

Q Did you have the impression that these affairs were of an orderly nature or otherwise?

A That is very hard to saybecause I was always sitting in the cell, but I was never under the impression that something was done on their own initiative.

Q Now will you please describe the circumstances under which you left Flossenburg?

A On the evening prior to the departure I was

told to pack my things and that I would be taken away the next day.

Q Who told you that?

A I can't state that any more today. If I am not mistaken, it was Haubold.

Q Please proceed with your description.

A I packed my stuff in the evening and the whole picture had changed the next day, the 15th. My door was mostly open and so was the door to the corridor. I was able to walk out freely and I saw that the whole corridor and the courtyard was overcrowded with people. Those were mostly English officers and troops and several Greek Generals and several other people who could not be easily identified.

Q Had you known any of these during your confinement?

A No.

Q By what means of transportation were you removed?

A In a covered truck, a truck covered with shelter halves.

Q Where did you enter this truck?

A In the prison courtyard.

Q Were you drivenaway the same morning?

A Yes. We were sitting in these trucks for about two hours. The trucks didn't move and we were told not to leave these trucks and we were also told that we could not leave the camp because of danger of low flying aircraft.

Q Well when you were finally removed, please describe very briefly your trip away.

15sp

A We then left Flossenburg and arrived at the next village which according to my memory was Floss. In Floss we had to stop because our truck could not make the hill. We remained there for about an hour. Then a closed prison car arrived and we were told to enter this car with only that what we had in our hands. Our other luggage would be brought along as soon as the car had been repaired. About 20 of us had to enter this closed in prison car. We were then left in it for three hours until we arrived in Dachau, interrupted only by short intervals during which we were allowed to get some air. When there was an air attack we were locked into these cars and the guards took cover to the right and left in the ditches and bushes. May I correct myself -- not when there was an air attack, only when danger of an air attack existed. We were not attacked.

Q Now in whose custody were you during this trip? I meanwere you in German or American custody from the time you left Flossenburg until you got to Dachau?

A I was in German custody. There were guards present whom I did not know. They were strangers to me.

Q Do you recall the date when you came into American custody?

A Yes. That was the 4th of May 1945 in Prags-Wildsee in the southern part of Tyrol.

Q Now could you identify Mohr if you were to see him today?

A Yes.

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Q Will you please look among the men seated behind me and point him out if you can do so.

PRESIDENT: Witness may step down from the stand in front of the defense table.

Q Will you point him out please.

A No. 28. (Indicating)

DEFENSE: Let the record show that the witness has identified the accused wearing the number 28 as Mohr.

Q Could you identify Haubold if you were to see him today?

A Yes.

Q Will you please see if you can identify him among the prisoners seated behind me?

A No. 17 (Indicating).

DEFENSE: Let the record show if the court please that the witness has identified the accused Haubold wearing the number 17 as the man Haubold in regard to whom he testified.

Q Were you allowed in the courtyard at any time during your confinement and before you were taken away?

A Yes.

Q When in the courtyard did you ever see any articles lying on the ground such as scrap material, razor blades, wire, etc?

A No, I was never able to determine that.

Q Did you ever see anything of the sort in the corridor?

A No, never. It was kept very clean.

Q Were you yourself allowed to possess razor

17sp

blades or wire?

A Yes.

Q Do you know whether the prisoners generally in the arrest building were allowed such things?

A I can't say that.

Q Did you ever observe the guard Haubold carrying a whip?

A No.

Did you have any opportunity to observe his conduct towards other prisoners?

A No.

Q Did you hear anything about the way in which Haubold treated other prisoners?

A No.

DEFENSE: Dr. Engelhorn will conduct the direct examination of this witness in regard to the accused Rolf.

PRESIDENT: Dr. Engelhorn.

QUESTIONS BY DR. ENGELHORN:

Q Prince of Hesse, I understood you correctly when you said that you assume that you were sent to Flossenburg for political reasons?

A Because I was arrested on September 8 in the evening. It was the day when Italy capitulated and a certain protection was gone that I had because of my relations to the Royal Italian House.

Q What relations did you have in Italy?

A My late wife was the second daughter of King Victor Emanuel of Italy.

Q Do you have any other proof that you were

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politically disliked?

A Yes.

Q What is that?

A There were numerous reasons. Do you want me to give any of those?

Q Please yes.

A One reason was that I was a Prussian Government official. I was the President of the province of Hesse Nassau. I had the greatest difficulties with the two Gauleiters whose precincts were in my province. The difficulties were mainly because of different aspects. The different ideas were mainly because of the Gauleiters having a political say-so and therefore contradicting the interests of the province. I could not in any conscience grant several things to these Gauleiters.

Added to this there were several measures I had taken on my part. It was partly support of several Jewish friends of mine whom I had known in former times.

Added to this, that I succeeded with the Fuehrer that a stop was put to the persecution of Catholic nunneries and the church. All this material and lots more was brought against me and was probably brought to the Fuehrer against me now that Italy had capitulated and my protection from the outside was gone.

Add to this also that I have told Hitler quite often my frank opinion about the cutter political things and inner political things. I never passed up any opportunity to warn him about dangers that were coming over the horizon. Unfortunately many of my

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predictions came true and that is why I was probably looked upon as a traitor in the Fuehrer's eyes. I think those were the main reasons. I had the confirmation of this when I was together with leading Party men in Mondorf.

Q Where did you reside as the President of Hesse Nassau?

A Kassel.

Q How did it happen that you were arrested in the great Headquarters?

A I was ordered to the great Headquarters about two months prior to my arrest. I was there as a civilian without any work. My request to return to Kassel which had been bombed severely was rejected. The Fuehrer made an excuse there by saying that he could possibly need me.

Q Were you ever used in the great Headquarters in any kind of position?

A No, never.

Q Who was the man in charge of the arrest when you were there in Flossenburg?

A At first Niess and then Wolf.

Q When did Wolf come in?

A I can't recall the exact date at the present time.

Q Can you estimate it?

A It was in the spring of '44 if I am not mistaken.

Q Would you still recognize Wolf today if you would see him?

A Yes.

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Q Please would you try to identify this accused among the accused?

A No. 51.

DR. ENGELHORN: Let the record indicate that the witness identifies No. 51 as being Wolf.

Q You stated that you did not receive any permission to write in the prison. Is that correct?

A I only had permission to write through channels of the camp commandant to Himmler or Hitler.

Q Who would have been the competent man to give you permission to write letters to your next of kin?

A Himmler.

Q Please tell the court if you ever tried to obtain such a permission from Himmler?

A When the camp commandant told me that my brother had been killed in action I wrote to Himmler requesting that I should be allowed to write a few words of consolation to my mother.

Q And what answer did you receive?

A I received the answer that they did not have any time to bother with my private affairs.

Q Please tell the court if it was possible for you despite of this prohibition for writing letters you were able to relay a letter in any way.

A At one time I had a very unusual occasion.

Q Please tell about this occasion.

A Sergeant Wolf received orders so far as I know to proceed to Berlin and he had received permission upon his return trip to visit his family. He asked me whether he could do any kind of favor for me. I then asked Wolf who did not know my real name to

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take a letter along for me, and I asked him to deposit this letter with his wife and upon best opportunity to send this letter to my family in case the war would end or in case of my death or in case that I would be executed. I then wrote this letter. It was sort of a letter which was addressed to my brother, and I put it up to my brother to look after my children and my mother, and I then also requested him to take in case of my death my place as head of the family. I also gave a short description of my fate. I then showed this letter to Wolf and gave him my real name. He took this letter along and fulfilled my wish. I have to add that this deed on the part of Wolf might have cost his life because I was aware of the fact that strict regulations governed special prisoners like I was.

Q Were you known in this camp only under the name of Wildhof?

A Yes. The only man who knew my real identity up to this time was the camp commandant Koegel and he only received word from Berlin sometime after I had arrived.

Q Please tell the court what kind of food you received.

PROSECUTION: I object to that may it please the court on the grounds that it's repetitious.

DR. ENGELHOF: I don't think that anything was said about the food the witness himself received. I think only general statements about food were made.

PRESIDENT: The previous remark on the part of the

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witness with respect to food was more or less of a general nature. Do you desire this witness to give more detailed information about the food? Is that the idea, Doctor?

DR. ENGELHORN: Yes.

PRESIDENT: Objection overruled.

QUESTIONS BY DR. ENGELHORN (CONTD)

Q Please tell the court what kind of food you received.

A I received the simple SS food.

Q What did it consist of?

A I can't today state any more what it consisted of, but it was definitely edible and sufficient.

Q Please tell the court whether or not it was possible for you to get additional food some way or the other outside of your regular rations.

A No I personally did not have any opportunities, but as I mentioned before by courtesy of Mehr and Wolf and another man by the name of Weihe I received additional food at various times from packages that they had received from home. I might add that at one time when they had found out that it was my birthday, they gave me some food outside of flowers.

Q Who gave you flowers and food on your birthday?

A Wolf and Niess.

Q You said that you had noticed that executions were carried out in the camp.

A Yes.

Q Tell the court did you notice any other kind of punishment being carried out in the arrest

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outside of executions?

A During the first time of my stay, I was able to determine that the beatings took place in the courtyard.

Q How could you determine that?

A I could hear the yells of the people and the strokes of the stick.

Q During which time was that?

A It was in the first month of my stay.

Q Has that continued or did it stop later on?

A Later on it stopped. I was so broken down with my nerves that I asked the commandant whether there had to be these kinds of punishments and I told him that I heard all this and described my condition to him.

PRESIDENT: Court will adjourn until 1:30 this afternoon.

(Thereupon at 1200 hours the court recessed.)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding, who is absent on business of the accused; and all the accused are present, with the exception of Oswald, Laschewski, Lisbusch, Buddensieg, and Schreiber, who are sick in the hospital, and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRINCE PHILIPP OF HESSE, called as a witness by the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY DR. EXNER:

Q My last question was, at what point of time the execution of punishment by beatings took place.

A If I remember correctly, it could have been at the most eight to fourteen days after my arrival.

Q Who was then the administrator of the arrest building?

A Wiese.

Q During your stay in Flossenburg did you ever have an opportunity to have contact with anyone outside your cell?

A Yes; first of all when my cell was cleaned I was led into the guard room. That is, not in the guard room itself but in the room next to it where the guards slept. And there I had opportunity to speak to them then. And then besides that in the evening a number

of the guard personnel, including Wolf, Mohr and Humbold, brought me over in the evening to them.

Q And what was discussed then?

A We had conversations among ourselves. They told me incidents of their past life and I told them about myself without ever mentioning my name. Most of all we talked about the fact that the elderly gentlemen, Mohr and Wolf, had homesickness; they wanted to go home, and that they would like to get rid of this work which they didn't like to do.

Q Besides Wolf did anyone else in the camp know your correct name?

A Only the commander—as far as I know, at least.

QUESTIONS BY DEFENSE COUNSEL:

Q During the latter part of your stay about how frequently did executions take place?

A I can't tell you that with accuracy because the executions were carried out as a rule early in the morning. And I was usually sleeping at that time because I couldn't sleep through the nights and I occupied myself with reading or small matters.

Q Do you recall any executions taking place on a Sunday?

A I can't do that.

DEFENSE COUNSEL: No further direct.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q When did you join the party?

A 1930, October.

Q When did you join the SA?

A I never joined the SA; I became an honorary member.

Q What rank did you hold in the SA?

A As I was chief president I became a general in the SA.

Q Did you ever join the Allgemeine SS?

A No.

Q Did you hold any honorary rank in the Allgemeine SS?

A No.

Q From who did you receive your appointment as the president of the Province of Hesse?

A The Minister President Goering.

Q How many prisoners came to Flossenburg at the time that you were brought there as a prisoner?

A I can't say that because I was locked up in a cell and wasn't allowed to see anyone.

Q What number did you receive?

A As far as I know I didn't get any number.

Q Were you issued prisoner clothing?

A No, I had my own clothes.

Q You brought your own clothing to Flossenburg with you, is that right?

A Yes.

Q And you brought as much clothing to Flossenburg as you wished?

A I brought all the things with me which I had with me when I was suddenly called to the main headquarters.

Q How many suitcases did you bring to Flossenburg?

A If I am not mistaken it was three large hand suitcases and a small case of toilet articles.

Q And you were permitted to keep all those during the time you were incarcerated in Flossenburg as a prisoner, is that right?

A I kept all my things with me, yes.

Q Did you go through the delousing plant?

A No.

Q Will you come over to this wall, please.

(Philipp-Cross)

A (Witness did as requested.)

Q I show you a chart marked Prosecution Exhibit No. 5, and I will ask you to examine it and state whether or not you recognize that as being the plan of the buildings at Camp Flossenbury?

A I can't give you any information about that because I arrived in Flossenburg by night; I was immediately locked up in my cell, and when I left I left in a truck which was closed.

Q So you know nothing, then, of the existence of the various buildings there at Flossenburg, is that correct?

A I only know about the one house that I could see out of my window.

Q All right, will you resume your seat, please.

A (Witness did as requested.)

Q I hand you a photograph marked Prosecution Exhibit No. 33 and ask you to examine that and state whether or not you recognize it.

A Yes, I recognize it. It represents the prison court yard.

Q With respect to Prosecution Exhibit No. 33 will you indicate on that exhibit the approximate location of the cell that you occupied.

A I can't show you the cell on this picture because the cell gave out on the other side of the building.

Q Was it located in the same end of that building that appears in Prosecution Exhibit No. 33?

A The cell to which I was first brought, about which I have been talking, lay in this wing here (indicating). Afterward I was brought into a small auxiliary room next to the guard room. And that is adjoining to this picture here; it's not on the picture itself.

Q Now, during the time that you were there confined in the camp of Flossenburg I believe you stated that you took walks in the court yard, is that correct?

A Yes.

Q I hand you a photograph marked Prosecution Exhibit No. 34 and ask you to examine that and state whether or not you recognise it.

A That's hard to say. All I see here is a wall. But I recognize here this stone ledge, which is the same kind of ledge that was in Flossenburg.

Q Now, while you were confined there in Flossenburg isn't it a fact that you were in a position to observe the corpse bearers as they passed by your cell?

A Yes.

Q Isn't it a fact that you observed these corpsebearers pass by at times when you did not hear any shooting take place?

A Yes.

Q Did you ascertain at any time that prisoners were being hanged in the arrest bunker?

A I couldn't determine that because I didn't hear any sounds at that time.

Q Did you ascertain that from your conversations with the friends that you had there—Wolf and Mohr?

A I determined it without having any definite backing—without knowing it definitely.

Q When was it that they started to open the cell doors and let the prisoners walk in the corridor?

A That's hard to say. If I remember correctly, at the beginning of my period of arrest there was more commotion in the hallways so that you could assume that people were walking up and down there. But I can remember quite exactly that toward the end of my arrest a great many people walked up and down in the corridors. And afterward I found out what that was, and that was for the most part English prisoners of war who had a right to move around there. If I remember correctly, there were English, Poles, and French officers, but they all were wearing English uniforms. And besides

thats, the Greek generals. Moreover, as far as I know, the gratings which were to the right and left of the entrance to the corridor and which closed it off, were open at that time.

Q Do you recall the Good Friday before Easter in the year of 1945?

A May I ask for the date of that?

Q Easter Sunday was April 1, 1945.

A I can't remember the actual Good Friday you talk about because in my mind the days are all mixed up.

Q Well, do you recall celebrating Easter Sunday in any fashion while you were there in Flossenburg in the year of 1945?

A No, it wasn't celebrated in any way at all.

Q You know absolutely nothing about the general treatment that the prisoners received outside of the bunker, is that correct?

A No.

Q And you know absolutely nothing about the food that the prisoners received outside the bunker, is that also right?

A May I come back to the first question for a minute, regarding the treatment of prisoners outside the bunkers?

Q Yes.

A I would like to correct myself and say now that I saw prisoners working on the slope of the hill. These people worked extraordinarily slowly. And I saw that once in a while, very seldom, they were incited to work. But there were no forms of coercion, no assault and battery used to make them work.

Q Approximately how many prisoners did you see working on that slope?

A I estimate between fifteen and twenty.

Q Did you observe the physical appearance of those prisoners that were there?

A They didn't look any too over-nourished; they looked about like the average man today.

Q Did you observe the clothing that they were?

A Yes, once in a while you would see people going by in stripped suits and others who were wearing civilian suits, which were pretty well worn out.

Q Did you ever at any time have occasion to determine the weight of the prisoners clothing?

A No, I can't say that.

Q Did you have an opportunity to observe these prisoners working on that slope during all seasons of the year?

A No, there were only small tasks taken care of there--removal of sand and rubbish which lay there. And on one occasion a second wire fence was erected.

Q Do you know what part Mohr played in the execution of prisoners there in the bunker?

A I can't say anything about that because I never heard any talk about it.

Q Do you know what part Haubold played in the executions that took place in the bunker?

A I can't say anything about that either because I don't know anything about it.

Q Do you know what part Wolf played in the executions that took place in the bunker?

A No, that's the same as with the others.

Q Do you know what department in the camp had charge of the administration of the arrest bunker where you were living?

A No, I can't say that.

Q How long was it that you were in Flossenburg before you told your friends there about yourself?

A It must have been just before Christmas 1944.

Q And at that time did you tell them that you were the president of the Province of Greater Hesse?

A I told them my full name and also my official position.

Q Isn't it a fact that the beatings that you complained about ceased in that section of the building that you occupied eight or fourteen days after you arrived?

A As far as I remember, yes.

Q Do you know what part of the building prisoners were moved to who received beatings thereafter?

A After that I didn't hear anything else and I don't know where and whether these took place.

Q Your estimate of Wolf's treatment of the prisoners is based on the treatment that he gave you, is that not true?

A Not completely, no, because I would have certainly heard about it if he had mistreated or given prisoners a rough time in the building.

Q Well, isn't it a fact that you did not come in contact with other prisoners?

A No, but the house was built out of cement and through the echos you could hear a great deal in the house, only it was almost impossible to determine from what direction the noise came.

Q So that it was impossible for you to ascertain who it was that was mistreating the prisoners, isn't that so?

A I never heard anything about a mistreatment.

Q Well, during the time that you were there did you—and you have testified that you did hear beatings for the first eight to fourteen days,—can you tell the court who it was that was performing those beatings?

A I can't tell you that because these punishments took place

in the court yard, not in the building.

Q Isn't it a fact that your estimate of Mohr's treatment of the prisoners is based upon the treatment that you received from Mohr?

A No, because I could determine that on Sunday afternoons Mohr arranged to have musical concerts with several instruments there in the corridors of the building and, as I heard, he did it in order to give the prisoners some cheer and to make them feel better.

Q And only those prisoners who were confined in the arrest bunker were prisoners such as yourself, and Prince Albert of Bavaria, and the Schuschnigg family, Greek generals, and English prisoners of war, is that not correct?

A No, that isn't true, because Mohr wasn't there any more when the people in question arrived. I must say that Prince Albert of Bavaria with his family and step-sister were not quartered in that building.

Q Well, only special prisoners, or so-called honor prisoners were confined in the bunker, is that not true?

A I don't believe that; no, as far as I know, those prisoners were only there toward the end of '44 and the beginning of '45--at least as far as I was able to notice.

Q Well, you were not able to ascertain, because of your restrictions on your movements and inability to mingle with others, who was in that bunker, is that not true?

A First of all, I could determine from the conversations who was there, and, second of all, as I said, a wall of boards was set up, behind which I could lie and get the sunshine. And through the openings in these boards I could see some of the prisoners.

Q Where was that board fence located, please?

A That was on the right side as you come out of the building

where the cells were—right at the end of the court yard.

Q Was this position shown in the photograph marked Prosecution Exhibit No. 33?

A No, on the opposite side. It was on this side (indicating).

PROSECUTION: Let the record show that the witness indicated the side nearest himself as he viewed the photograph.

Q Now, you stated that you heard the yells of prisoners and the beating that was being inflicted. Will you tell the court, please, to what extent these beatings were administered?

A I can't say exactly but I had the feeling that it consisted of two different degrees. One was a longer; one was shorter; one consisted of more blows than the other.

Q Were these beatings in excess of twenty-five blows?

A I can't say that; I didn't count them.

Q Approximately how long did they last?

A That's very hard to say, but I would say two to three minutes.

Q How often did they take place during these eight to fourteen days that you recall?

A I can't say exactly. They took place in the evening after the end of working hours. I would estimate five or six times, but I can't take any responsibility for that number.

Q And were they administered in the guard room next to your cell?

A No, as I already said, they took place in the court yard.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Colonel Wilson?

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q Were any British officers taken away at the time you were, that you saw?

A Yes, there were several English officers then.

Q Were they taken away in the same conveyance as yours?

A Some were in the same truck as I was and some were in the next.

Q Do you know where those in the truck with you finally went to?

A Yes, they were with me the whole time. We were brought from Flossenburg to Dachau, and then on from Dachau to Prags, in the Tyrol, where we were taken over by the American troops.

Q Do you recall how many British officers there were in that truck with you?

A There were around nineteen in British uniform, but some of them didn't have an officers' rank.

DEFENSE COUNSEL: No further questions.

PRESIDENT: Redirect, Dr. Engelhorn?

DR. ENGELHORN: No, thanks.

PRESIDENT: Anything further on the part of the defense at the present time?

DEFENSE COUNSEL: No, sir.

PRESIDENT: Recross?

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q What is your age?

A 49.

Q Were you in the armed services during the course of World War No. 2?

A No, I was not in the war; I was appointed top president.

Q Just what were the nature of your duties in connection with this assignment as president of the Province of Hesse?

A The c ief president of a province was really the representative of the mi ister in the province and was the top state official in the province.

Q You mentioned that you secured your appointment to that detail from Goering, Ministerial President. Is that Goering any relation to Hermann Goering?

A That's the same guy.

WITNESS: I would like to emphasize here that I didn't use the word "guy".

PRESIDENT: I would like to have the correct interpretation of that.

INTERPRETER: It was the same "gentleman".

Q Now, you have mentioned that the food you received was of the general nature of the SS food. Did you mean by that, that that was the food that was issued to the SS personnel in the camp, to the guards?

A Yes.

Q In other words, then, the court understands that you received the same type of food that the guards received, and the court is referring to the SS guards.

A That's the way it was told to me.

Q Did you observe any American personnel during the time that you were in Flossenburg?

A No, I never saw one and I never heard about one being there.

Q Just what is the nature of your status at the present time? The court is referring to the status of your custody.

A I can't say that; I don't know it.

Q Do you know why you are being held at the present time?

A No.

Q You have never been informed?

(Philipp-Court)

A I was told that as far as I was concerned everything was in order and that I would be released and that I should have been released already. The leading CIC officer in Darmstadt told me about that.

Q What was his name, do you know?

A Captain Howard.

Q And when did he tell you that?

A After all the papers in regard to me had been collected and put together they had made investigation in the province regarding me and my activities as president, they made investigation in Kassel and Frankfurt, and they asked in Kassel and Frankfurt in the newspaper whether any witnesses could appear for me or against me, and all that ended up with no charge against me. And to prove that the CIC officer showed me the papers which he had lying on his desk.

Q Then the court understands that you were never officially notified as to why you were being held in custody at the present time, is that correct?

A No, as a chief president I was automatically arrested.

QUESTIONS BY DR. MARX:

Q How many conversations did you have with Mr. Schuenigg and Madame Schuenigg?

A I spoke with Madame Schuenig around five times and with Mr. Von Schuenig twice, that is to say, in Flossenburg. Later on we made the transport trip together.

Q Did you have a chance to talk to Mr. Schuenig for some little time on these different occasions?

A May I ask you where you mean—in Flossenburg or during the transport?

Q At any time.

A Yes, I have talked to him at various times.

Q What was his mental condition? Did he appear to be normal mentally, or otherwise?

A He made a completely normal impression, although he was nervous and ill at ease because he had been in arrest for so long.

Q There was quite a bit in the newspaper at the time, that he was deranged mentally and I was wondering whether or not it was the policy to keep any mentally deranged persons in Flossenburg, if you know.

A No, I can't say that.

Q You said that you came in contact with Koegel. Did you come in contact with any other of the high-ranking SS officers in Flossenburg?

A No, according to an emphatic order from Himmler no one was allowed to come in to see me. Once a higher general of the SS—I assume it was a major general—tried to get in to see me in my cell and Koegel didn't allow him in.

Q Did Koegel allow any of his assistants to see you other than the ordinary soldiers who talked to you?

A No, nobody except the guards were allowed to come into me.

QUESTIONS BY PRESIDENT:

Q The court understands, then, that you actually did not see yourself anybody executed or any beatings, is that correct?

A No, I never saw any execution or any case of beating.

QUESTIONS BY COLONEL SMELY:

Q Had you ever heard of Flossenburg before you were sent to Flossenburg?

A No, I never heard that Flossenburg ever existed. I only knew about the concentration camps in Oranienburg and Dachau.

Q What type camps did you hear they were?

A On the one hand these camps were explained to us as being readjustment camps for political prisoners and on the other hand they were supposed to be camps in which criminals were kept who had committed repeated offenses and from whom they could not expect that they would

ever be anything but criminals.

Q In your conversations with Wolf, Mohr and Maibold did they give you any information at all about Camp Flossenburg?

A No, hardly. We scarcely ever talked about it.

Q You say "hardly". What do you mean "hardly"?

A Once in a while when they had to go out and take care of errands they would say, for instance, that they were going to the command post. And, for instance, when he came back he told me once he had to take over an outside work detail; and I was told before Hiess went away that he was going out to take over an outside work detail.

Q Didn't your curiosity sort of make you want to inquire about these beatings and executions at all?

A The beatings took place in the beginning and since I didn't know exactly what my position was I had to be very careful what I said.

Q Were you apprehensive at all?

A Yes, because I didn't know for what reason I had been arrested.

Q Now, Wolf, Mohr and Maibold befriended you very much, didn't they?

A Yes, the whole time they were very friendly to me and made the time easier for me.

Q Were you able to reimburse them with anything at all while you were there?

A No, that wasn't possible.

Q Did you make any promises to them?

A No, I didn't have any reason to make them.

PRESIDENT: Any further questions by members of the court? Apparently not. The court will take a short recess in place.

(Thereupon the court recessed in place at 1135 hours and reconvened at 1140 hours.)

PRESIDENT: Court will come to order. Colonel Gilson?

DEFENSE COUNSEL: No further questions by the defense.

PRESIDENT: Any further questions by the prosecution?

MR. ROSENTZ: No further questions by the prosecution.

FURTHER EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Just when did this captain from the CIC notify you that your case had been cleared and that you should be released?

A It was the middle of August this year.

Q Have you ever been notified as to just when you would be released?

A He said that according to his own personal opinion I could count on being released the end of the same month.

Q But you have never received any official information to that effect?

A No, that was a purely personal matter.

QUESTIONS BY LAW MEMBER:

Q What kind of quarters have you got now?

A For the time being I have my quarters here in the hospital.

Q Yes, but you are only here just for this hearing, is that correct?

A That is right, as far as I have been told.

Q What kind of quarters did you have before you came here?

A I was quartered in the bunker.

Q Did you have comfortable quarters and sufficient food, or how were you treated?

A When I was transported away from Frankfurt I was brought into the prison in Wiesbaden. I was kept there for eight days and on the ninth day I was transported away. During the whole period I only was outside in the fresh air for ten minutes. I had to clean

(Recess-Cont'd)

up my own room and I didn't have any other signs of being favored. I was brought here then from Frankfurt by airplane, came here and was brought into the bunker and was quartered together with fifteen men in the same room. I can't complain about the food because the food here is better than it was in Darmstadt.

PRESIDENT: Any further questions by members of the court? Apparently not. Any further questions from the defense?

DEFENSE COUNSEL: No, sir.

PRESIDENT: Prosecution?

MR. BURKOWITZ: No further questions.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: Meye will return to the stand. He was being cross-examined.

WALTER PAUL ADOLF MEYE, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BURKOWITZ:

Q Now, Mr. Meye, I believe you testified that your last connection with the administration of Flossenburg was at a place you called Landau, is that correct?

A That isn't quite correct, because I left Flossenburg in March 1945 and I came to an outside camp which was under the jurisdiction of out camp Natzweiler and the main camp Natzweiler sent me on because the American troops were coming ever closer. They sent me to Gaufring near Landsberg on the Lech and that is an outside camp of Dachau. And then I went to Landau on the Isar River, and I do not know the main camp of that camp.

Q Now, how close was this place you called Landau to the airport or airfield at Mannacker?

A As I already said the camp was three to four kilometers different.

Q Who was the commando leader of the place you called Lindau or Landau?

A Bohnart--top sergeant.

Q And who was the commando leader of the detail at the air strip at Ganacker?

A I don't know that.

Q Didn't you know that the two places or the two commandos were really parts of one commando?

A I knew definitely that they were two different places because the prisoners from Ganacker came to me ten days later in the camp.

Q Which place was nearer to the town at Landau, the place in the woods that you testified about or the air strip?

A I believe that the place at the air strip was nearer to Landau.

Q And the place that you called Commando Landau was farther away from Landau than the one that was called Ganacker, is that correct?

A That's right.

Q And do you know that these two commandos were administered as one out commando of Flossenburg?

A Yes. I don't really know that exactly.

Q Don't you know that the same commandofuehrer Dohnart or Bohnart--

A I don't know whether Bohnart was from Flossenburg or not, at any rate I never saw Bohnart in Flossenburg.

Q Well, do you know to what camp the death reports were sent from these two commandos?

A From where they were sent?

Q No, to where they were sent.

A I don't believe that there was scarcely one death report which left the camp where I was .

Q What date did you come to the camp you were in?

A Between the 12th and 15th of April 1945 I arrived in the Camp Landau on the Isar River.

Q Which is the Camp Landau?

A The one where I arrived from the transport.

Q Do you mean by that the camp in the woods that was farther away from the town of Landau than the camp at the air strip of Ganacker?

A The place in the forest where the round huts were located and the earth huts were built.

Q Didn't you know that was part of Ganacker commando and administered as such?

A I don't know that. I just got there—how should I know?

Q You were working there, weren't you?

PRESIDENT: Mr. Prosecutor, the court feels that certain of these questions are more or less repetitious.

MR. BERKOWITZ: If the court please, this witness has attempted to confuse the court concerning the location of these two commandos which were part of one commando and I am trying to clarify it.

MR. MCKAY: If it please the court, I object to the prosecution's statement that this man is trying to confuse the court. Such a statement is strictly out of order.

PRESIDENT: Objection sustained. Continue, Mr. Prosecutor.

Q Was there any commando in the town of Landau?

A In the city of Landau, yes.

Q There was a commando in the city of Landau?

A The prisoners worked there from Plattling.

(Weye-Cross)

Q Was the commando that you were connected with in the town of Landau?

A Not in the town of Landau, no.

Q How far from the town of Landau was t is commando?

MR. MCKAY: That is objected to as repetition.

PRESIDENT: Objection is sustained. Continue, Mr. Berkowitz.

Q Now, when did you leave this commando in the woods?

A The 26th or 28th of April 1945.

Q At what time of day?

A Early in the morning.

Q What duties did you have in connection with the prisoners as they were lined up ready to evacuate?

A I didn't have any duties at the evacuation.

Q Well, did you see the prisoners lined up prepared to evacuate?

A Yes, I saw that.

Q Where were they lined up?

A On the front of the open square in the camp near the main entrance.

Q Where were you standing with respect to that line?

A I was standing toward the front with my marching block.

Q On that occasion did you see a prisoner who attempted to take some bread for himself?

A He didn't want to steal any bread for himself; he merely stole the bread for a sick comrade who was practically in agony.

Q Isn't it a fact that just before the evacuation, just before the column marched out, you beat and kicked that prisoner to death?

A Mr. Prosecutor, I have described this case as it was and what part I took in it. Nobody, including all the great personalities who come here as witnesses now can ever say that during the whole

(Meyer-Cross)

time that I was in Flossenburg, during the whole time that I now have behind me, that I ever kicked anyone to death, that I ever beat anyone with a spade or with a shovel. But a prisoner who knew me for only ten days comes and maintains that I beat a prisoner to death—and the way I look at it, that's rather strange.

MR. BERKOWITZ: I ask that that comment be stricken from the record.

MR. MCKAY: If it please the court, the prosecutor brought that comment on himself by his own actions and cross-examination.

PRESIDENT: The motion to strike is denied.

Q Then your reply to my question concerning your treatment of the prisoner prior to evacuation is "No"?

MR. MCKAY: That is objected to as repetition and argument.

PRESIDENT: Objection sustained. The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours).

(Thereupon the Court reconvened at 1630 hours.)

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the Court, let the record show that all the personnel of the Court, all the personnel of the prosecution with the exception of Mr. Pinter, who is absent on business of the prosecution, all the personnel of the defense with the exception of Major Oeding who is absent on business of the accused, are present. That all the accused are present with the exception of Oswalt, Olschewski, Buddensieg and Schreiber, who are confined in the hospital with illness and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Continuation of cross examination by Mr. Berkowitz.

WALTER EMIL ADOLF NEYE, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (CONT'D)

QUESTIONS BY MR. BERKOWITZ:

Q Now Mr. Neye, why was it that you kept the prisoners of block 47 waiting outside their barracks for two or three hours after the other prisoners were allowed to enter their blocks?

MR. MC NAY: The question is objected to as argumentative in form and exceeding the scope of cross examination- direct examination- in that no such statement was ever made by the accused on direct.

MR. BERKOWITZ: If it please the Court, I am now examining one of the defendants and in such cross examination I am not limited by the testimony developed on direct examination.

MR. MC NAY: I think the prosecution is confused. I think the privilege he speaks of is that of the court and not his.

PROSECUTION: May it please the Court, I would like to add that I think counsel for the accused may be in error. I would like to submit the necessary authorities to sustain the position of Mr. Berkowitz. I would be glad to get them and it will not take but just a few seconds.

PRESIDENT: The Court will recess in place.

(A short recess was taken.)

PRESIDENT: The Court will come to order.

MR. BERKOWITZ: Referring to Wharton's Criminal Law, Paragraph 1325 and to Underhill's Criminal Evidence, Section 139, which are in agreement, discussing the right of cross examination of a defendant they say:

> "He cannot complain if considerable latitude or even wider latitude than is given with ordinary witnesses is allowed on his cross examination and generally he may be asked on his cross examination the same questions as any other witness."

Now referring to the other book:

> "Considerable latitude should be allowed in the cross examination of the accused. Indeed, since in the cross examination of an adverse party, a great latitude of inquiry is allowed. Great latitude should be allowed in the cross examination of the defendant, at least the accused may be cross examined with the same latitude as other witnesses even though his testimony is self incriminating."

PRESIDENT: Do you have any clear cut evidence that that includes the matter of greater latitude and also new matter not brought out during the course of direct examination.

MR. BERKOWITZ: If it please the court, this question is not bringing out new material. The witness has stated that he treated all prisoners well and with consideration and tenderness and this question is directed, as will be other questions, to finding out exactly how he did treat the prisoners. In the same paragraph, Underhill further states:

> "Cross examination of the accused is intended to bring out omitted facts and test the witness' accuracy or to elicit answers which contradict, weaken or modify the effect of direct testimony. The defendant may be examined in

"detail concerning a matter to which he referred generally and he may be cross examined as to any fact stated in direct examination or on all subjects about which he testified of relevant or all matters relevant to his guilt. He may be cross examined about any matter pertinent to the issues and the accused who testifies voluntarily in his own behalf is presumed to have done so with knowledge that he accepts the usual responsibilities of every witness and that anything he may say of an incriminating character may be subsequently used against him."

PRESIDENT: The reporter will read the last question.

(Whereupon the question was read as follows by the reporter:

"Q Now Mr. Noye, why was it that you kept the prisoners of block #7 waiting outside their bar-acks for two or three hours after the other prisoners were allowed to enter their blocks?")

PRESIDENT: Mr. Berkowitz, the court would like information as to just what witness testified to the matters covered in this question?

MR. BERKOWITZ: No witness has testified to that fact, sir, I am asking the accused concerning certain information which is available to us and that question is pertinent to the issues. The accused has taken the stand to protest his innocence of the charges laid down in the charge and specification. These charges specify killin s, beatings and abuses. Under cross examination I should have the right to question him concerning anything which would tend to show that he was not innocent. It is true that in Court Martial cases, where there are several specifications and testimony is offered concerning only one specification that the cross examination may be limited to that, however, in this case we have but one specification and the other rule concerning Court Martial proceedings would not apply in this case.

PRESIDENT: The court does not recall any evidence coming before this court which would conform -- which would form the basis for this particular question involving this particular defendant. If you can produce that evidence to the court or produce from the record such evidence the court will give the matter further consideration.

MR. BERKOWITZ: If it please the court, I would be permitted to ask this question to lay a predic te for rebuttal witnesses. We have already produced witnesses to testify to the accused's guilt and we have a right to question him on further facts, which if he denies would lay the predicate for the introduction of further evidence against him. The court will recognize that in cases of this kind where possibly a dozen witnesses are available against an accused, it is impossible to produce all of them and the prosecution limited itself, in most cases, to two witnesses. Now the accused takes the stand and says, "I am innocent". The prosecution has a right to find out if he is innocent of the charges and that question is not improper nor limited to the testimony already introduced.

PRESIDENT: The Court will be closed.

(Thereupon at 1556 hours the court was closed.)

(Thereupon at 1605 hours the court was opened.)

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the Court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Ogmult, Olschewski, Buddensieg and Schreiber who are sick in the hospital and whose interests are being taken care of by counsel. If there are any spectators in the courtroom who expect to be called as witness in this case they are requested to please leave the courtroom.

PRESIDENT: The objection of the defense counsel, Mr. Mc Kay is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Noye, is it a fact that you kept the men of your block standing outside the block for two or three hours after the other prisoners were permitted to return to their barracks?

MR. MC KAY: The question is objected to as being argumentative in form and exceeding the scope of direct examination. It is an effort to distort the facts as presented by the witness himself.

PRESIDENT: The objection of the defense counsel Mr. Mc Kay is sustained.

MR. BERKOWITZ: If it please the court, I understand that there has been a ruling but I would like to be heard on the matter.

PRESIDENT: The ruling has already been made, this matter has taken up entirely too much time already, proceed.

QUESTIONS BY MR. BERKOWITZ:

Q Is it a fact, Mr. Noye, that while you were in block #7 you hit or struck a frenchman named Louis Martin on the head with a ladle until he was unconscious.

A I know a Louis Martin, from block #7 and he is known to me as a decent Frenchman and I never beat him.

Q Is it not a fact that while you were in block #7 you subjected prisoners who were inmates of that block to the cold water treatment?

MR. MC KAY: The question is objected to as argumentative in form and beyond the scope of direct examination.

MR. BERKOWITZ: If it please the court, in the first place I am asking the witness a question and not arguing with him and secondly he has treated prisoners well, so he claims, and I want to know what he means by "good treatment".

PRESIDENT: Anything further Mr. Mc Kay?

MR. MC KAY: Nothing, sir.

PRESIDENT: Read the question again, please.

(Thereupon the question was read by the reporter as follows:

"Q Now, Mr. Neye, is it a fact that while you were in block #7 you subjected prisoners who were inmates of that block to the cold water treatment?")

MR. MC KAY: Not only is that evidence not a part of this man's examination there is not any evidence in the record of that sort of thing at all.

MR. BERKOWITZ: I can only reiterate that the prisoner stated that he treated prisoners well and on cross examination we have a right to find out what that treatment was.

PRESIDENT: The objection is sustained.

MR. BERKOWITZ: Is it a fact that you subjected prisoners in your block to the cold water treatment?

MR. MC KAY: The question is objected to as argumentative in form.

MR. BERKOWITZ: I don't assume anything and I am not arguing with the witness, I am merely asking a question. The question goes to the treatment of prisoners.

MR. MC KAY: It exceeds the scope of direct examination.

PRESIDENT: The objection is sustained.

MR. BERKOWITZ: Is it a fact that you repeatedly reported prisoners in your block for offenses so that they received punishment?

MR. MC KAY: The question is objected to as argumentative in form and it exceeds the scope of direct examination.

MR. BERKOWITZ: May it please the court, the witness, the accused has on direct examination stated that he beat some prisoners because he did not want to report them. I want to know now if he ever reported any prisoners.

PRESIDENT: Objection sustained.

MR. BERKOWITZ: Did you ever beat a prisoner in block #7 with a rubber hose?

MR. MC KAY: The question is objected to as argumentative in form and it exceeds the scope of direct examination.

PRESIDENT: The objection is sustained.

COLONEL SIMLY: Object.

PRESIDENT: The court will be closed.

(Whereupon at 1620 hours the court was closed.)

(Whereupon at 1630 hours the court was opened.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, all the personnel of the prosecution with the exception of Mr. Pinter, are present, Mr. Pinter is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Weding who is absent on business of the accused, all the accused are present with the exception of Oswalt, Olschewski, Buddensieg and Schreiber who are sick in the hospital and whose interests are taken care of by counsel. If there are any spectators present who expect to be called as witnesses in this case will they please leave the courtroom.

PRESIDENT: The objection of defense counsel, Mr. Mc Kay, is overruled. Read the question.

(Whereupon the question was read by the reporter.)

THE WITNESS: No.

QUESTIONS BY MR. BERKOWITZ:

Q Did you ever beat a prisoner in block #7 with a club?

A I have mentioned in the beginning how I conducted myself as a former prisoner. I have also mentioned that I never took a rubber hose or the handle of a shovel or a handle of a spade in my hand.

(Weye-cross) - three -

Q Will you tell again how you conducted y urself as a former prisoner?

A In what respect?

Q In your treatment of the prisoners who were in your charge?

A I was not in charge of any prisoners. I did that because of a comradship when I was a room orderly in block #7.

Q How did you treat prisoners - your fellow prisoners, while you were a room orderly in block #7?

A When it was humanly possible -- well, according to the conditions as existed -- there were 1200 men in that block.

Q Will you describe your treatment? What did you do? What do you call good treatment?

A I have also mentioned getting the food from the kitchen and taking it to block 7. If I was not attacked by any fellow prisoners, no bad word was ever said. But, when I was attacked by 50, 60 or 75 prisoners of all nationalities I couldn't just look on. What would I feed my 800 prisoners in the block? When these prisoners spilled my food once, 100 liters, then 150 liters, I did not get any substitution for that from the kitchen. That was missing food so I had to stretch the other food so all the other 800 prisoners would receive something to eat. I am not guilty of that because had the headquarters provided enough food for all the prisoners then things like that would never have happened things like they would have to go for food and try to steal it.

Q Did you say that you volunteered for this job out of the goodness of your heart? Did I understand you to say that?

A Yes.

Q You accepted the job of taking the food up from the kitchen and the food distribution voluntarily?

A Yes.

(Meyer-dross) - 3b#1 -

Q How about the job in the woods near Ganacker, did you accept that voluntarily?

A Yes.

Q When you were at Ganacker did you ever beat a prisoner with a rubber hose?

MR. MC KAY: The question is objected to as argumentative in form for the reason that this witness has testified that he was never at Ganacker.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q When you were in the detail in the woods near Ganacker, did you ever beat a prisoner with a rubber hose?

A There were no air hoses in Landau on the Isar.

Q Will you answer my question, please?

A I did answer that question Mr. Prosecuter, I have said that there were no air hoses in the camp Landau on the Isar.

Q When you were at the camp near Ganacker in the woods, did you use a spade handle to beat a prisoner?

A Mr. Prosecuter, I have mentioned several times that my hand never reached for any spade handle. I have had, during my stay in the camp, fights four times with Germans when I had a club in my hand because my life was at stake.

Q What was this organization of block elidets that you talked about yesterday?

A I don't understand "organization" of block elidets?

Q You testified yesterday that the block elidets were organized concerning the food distribution.

A Oh. That was an agreement among us prisoners. All the block elidets received fifty additional liters of food from the kitchen to reimburse the people who cleaned up the block or else scrounged things as I have described yesterday. Prisoners who brought things into the

(Keye-cross)

illegaly had to be reimbursed some how. The SS did not issue us anything and we depended upon ourselves.

Q Who were parties to this agreement?

A Those were good natured prisoners from the prisoner's kitchen because other prisoners worked there.

Q Didn't you say it was an organization of the block elders?

A N , no, that was an agreement with the kitchen capo and that was voluntary. The SS was not supposed to know anything about that.

Q While you were at block 7, in your treatment of the prisoners, did you ever force any of them into - rather, to stand in cold water for any long period of time?

MR. MC KAY: The question is objected to as argumentative in form and exceeding the scope of direct examination.

MR. BERKOWITZ: If it please the court, I am not arguing with the witness. I do not know Mr. Mc Kay's definition of an argument but I should imagine that an argument would include a statement and a contradiction. I am merely asking for a description of what he called good treatment of prisoners. The accused just stated that he treated prisoners humanely as possible and I want to find out whether he did or did not require certain of the prisoners to remain in cold water for a long period of time.

PRESIDENT: Objection of defense counsel is overruled.

(hereupon the question was read by the reporters)

THE WITNESS: I mentioned in the beginning that most of the prisoners went to work and that about 100 to 150 who were sick in my wing remained behind. Fifteen to twenty of these had diarrhea and if a prisoner relieved himself on the spot and he was too weak to get up and walk I took him in my arms and took him over to the lavatory and washed him, just like a mother washes her baby and then I carried him back to his bed and put him down and covered him wit several blankets.

(Nyey-cross)

Of course, when the other prisoners returned at night from work, they always used their blankets but to do more was himanly impossible. If the prosecutor thinks that I would take my sick prisoners who had only four or five more days to live in the block and put them under cold water or splash cold water on them that's his business. I would never trust myself to do that. The prosecutor has not been able to bring any witnesses for such a case, as far as I know and as far as my prisoners and former fellow prisoners is concerned.

Q Is it not a fact that you did keep a Czech prisoner in cold water for three hours?

MR. MC HAY: If it please the court, the prosecution is trying to attempt to question and put in evidence facts which have never been put into the record. For that reason I contend that the whole process is argumentative. There is not one scintilla of evidence that this man ever did anything but distribute soup and do roof orderly work in block 7. This is wholly an attempt to read into the record evidence which is not there. For that reason I contend it is argumentative and beyond the scope of direct examination.

MR. WARD: If it please the court, the witness stated that he treated the prisoners humanely. I am questioning him about a particular case about which he can answer. It is not argumentative at all, all the argument seems to be on the part of the defense counsel.

MR. CARTER: The objection is overruled.

LT. COL. SERVICE: Objects.
PRESIDENT: Court will be closed.
(Thereupon the court closed at 1645hours.)

(Thereupon the court opened at 1700 hours.)

PRESIDENT: The Court will come to order.

RECORDER: May it please the court, let the record show that all the members of the court are present, all the personnel of the prosecution, with the exception of Mr. Minter who is absent on business of the accused, are present, all the personnel of the defense are present,

---Mr. Pinter is absent on business of the prosecution -- with the exception of Major Jeding who is absent on business of the accused, all the accused are present with the exception of Oswalt, Olschewski, Buddensieg and Schreiber who are sick in the hospital and whose interests are taken care of by counsel. If there are any spectators present in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Proceed, Mr. Prosecuter. The ruling has already been made. The objection is overruled.

THE WITNESS: I never held a Czech prisoner under water or anything like that for three hours ---

PRESIDENT: The Court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon at 1700 hours the court adjourned.)

2 nd Copy

CA/GI 13

Court

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

PAGES 3486 - 3564 incl.

Case No.

Prosecutor

*Summary
*Intermediate Military Court.
*General

Defence Counsel

Place Dachau, Germany

Interpreter

Date 12 September 1946

Reporter

Members of Court:

WITNESSES:

NEIN, Walter Paul Adolf
WATHOI, Leonhardt
HABERL, Anton
MAYER, Karl

Accused Friedrich Becker, et al

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

12 SEPTEMBER 1946 0910 hours to 1700 hours
Pages 3486 - 3564 incl.

T E S T I M O N Y

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
MEYER, Walter Paul Adolf (contd)		3486 3511	3493		3499
MAYROI, Leonhardt	3514	3525			
HABERL, Anton	3527	3543 3545		3558	3542 3543
MAYER, Karl	3546	3550	3556		3559

E X H I B I T S

No.	Description	Marked	Received In Evidence
P-66	Statement of Karl Mayer	3550	•

9/12/46
436 PM
1.

Camp Dachau, Germany
12 September 1946.

MORNING SESSION

(whereupon at 0910 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Maj. Oeding who is absent on business of the accused; all the accused are present with the exception of Eisbusch, Buddensieg, Oswald and Schreiber who are sick in the hospital and Olschewski and Dr. Schmitz who are sick in the bunker. The interests of these accused who are absent are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

WALTER PAUL ADOLF NEYE, an accused, resumed the stand and not having been sworn testified further through an interpreter as follows:

PRESIDENT: Continuation of cross-examination. Mr. Berkowitz.

CROSS EXAMINATION: (continued)

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Neye, is it a fact that on direct examination you testified that had one of your co-prisoner defendants ever beaten a prisoner to death the effect of rumor was such that you would have known about it?

A That's right.

While you were at the new camp of Ganacker, the one in the woods, the one you called Landau, did you learn that Eisbusch at the old camp of Ganacker, which was part of the same camp, had just a couple of weeks previously beaten two Belgians to death?

(Neye-cross)

MR. M'KAY: The question is objected to in that it exceeds the scope of cross-examination in that this witness has testified that he was never in the camp of Ganacker before.

MR. BERKOWITZ: May it please the court....

PRESIDENT: Just a minute. Dr. Wacker.

DR. WACKER: I must take up the motion of Dr. McKay. I believe that a decision must be made in regard to this important point and the point I am driving at is whether or not the accused on the stand can be made to testify about another accused unless the name of the other accused or matters relevant to him have appeared in direct examination.

PRESIDENT: Repeatm the question, Mr. Reporter.

(Whereupon the reporter read the question)

PRESIDENT: I feel, Mr. Berkowitz, your question is rather ambiguous. You are speaking of a new camp of Gamacker and an old camp of Ganacker. The court does not have positive evidence in that respect. Are you referring to the actual concentration camp Gamacker when you mention the old camp and the new camp or are you referring to a city?

MR. BERKOWITZ: If the court please, the testimony thus far has shown that a commando at Gamacker was divided into two parts. There was one at the airport and subsequently one was established in the woods, where the huts were built; and the second one is the one that this witness has chosen to call Landau although the testimony shows that this second place was farther away from Landau than the first and the same prisoners worked in both places.

PRESIDENT: Then when you were referring to Gamacker you were referring to the concentration camp of Gamacker when you were referring to the old and new; is that the idea?

MR. BERKOWITZ: When I was referring to the new camp I was referring to the one in the woods where this witness was and when I referred to the old camp I was referring to the nearby airport

where some of the prisoners worked which were part of the same camp.

MR. M'KAY: If it please the court, this question is simply an attempt by the prosecution to place an interpretation upon the testimony of the accused which is entirely foreign, entirely incorrect, and an attempt to complete testimony of the prosecution which it is an ultimate fact this court must decide. This man has testified that he did not know what the administration was and the prosecution is trying to force him to say this was a part of Ganacker. The question becomes argumentative in form.

MR. BERKOWITZ: May I withdraw the question and preface it with others?

PRESIDENT: The court will permit that. At the same time the court must caution you, Mr. Berkowitz, that the evidence is not conclusive. There were two separate camps down there, both known as the Ganacker concentration camp. The court feels there is still that considerable amount of confusion on that point. The court thoroughly approves of your request to withdraw the question.

QUESTIONS BY MR. BERKOWITZ:

Mr. Keye, you stated that you were in a camp which you called Landau which was situated in the woods and where the prisoners lived in mud huts; is that correct?

A Yes.

Q And you also testified that a few kilometers away there was an airport at Ganacker; is that correct?

A That's the way the camp at the airport was named.

Q And there were prisoners from the airport who came over to the part which was in the woods; is that correct?

A In the last ten days the prisoners from the airport from Ganacker came over to us in Landau on the Isar River.

(Keye-cross)

Q As a matter of fact, wasn't the camp in the woods farther from Landau than the commando at the airport?

MR. M'KAY: I don't like to hold up this thing but these questions are repetitious and I object to them on the ground they are repetitious.

PRESIDENT: Mr. McKay, the court feels there is still some confusion on this point. The court desires the matter cleared up. Your objection is overruled.

ACC NEYE: Whether my camp was farther away from Landau than Ganacker was?

QUESTIONS BY MR. HERKOWITZ:

Q Than the airport was.

A Yes. From down there there was a distance of three or four kilometers. The prisoners who went from my camp to work in the airport were usually a half an hour under way traveling.

Q And the prisoners from the camp in the woods worked on the airport in Ganacker; is that correct?

A That was their place of work.

Q And the commando leader at the place in the woods was a man named Behnert; is that correct?

A Behnert.

Q And the commando leader of the prisoners who went from the camp in the woods to work at the airport was Behnert; is that correct?

MR. M'KAY: That's a repetition of the former question.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. HERKOWITZ:

Q Was the commando fuehrer, the commando leader of all prisoners at both locations Behnert?

A I don't know that.

Q But the prisoners were the same in both places, they went to work at the airport and they came back at night to the place in

(Naye-cross)

the woods; is that correct?

A That's right but I don't know whether Behnert belonged in Gannacker or not. I was never in Ganacker. I never saw him there, I only saw him with me in the camp.

Q Did you ever go to the airport at Ganacker?

A Whether I ever worked there?

Q Did you ever go to the place?

A After the camp had already been evacuated in Ganacker I went and got two prisoners who were seriously ill. All the prisoners were away, the camp had been completely evacuated, only these two seriously sick prisoners were there.

Q And you brought these two sick prisoners to the camp in the woods?

A Yes.

Q And this camp in the woods is the one you choose to call Camp Landau on the Isar?

A That's the way we were told. When our transport first left Leonburg near Stuttgart we were told that the transport was going to Landau on the Isar River. It wasn't told to me alone but was told to the 800 and 850 prisoners who accompanied me on this transport to Landau on the Isar.

Q You have testified this morning that the effect of rumor was such that if one of your codefendants who had formerly been a prisoner at Flossenburg had beaten a prisoner to death you would know about it; is that correct?

MR. M'KAY: The question is objected to as argumentative in form. It doesn't show where the rumor was, whether it was in the camp, on the evacuation, or where. I move to strike out the answer.

MR. BERKOWITZ: If it please the court, that's exactly what I am trying to find out.

PRESIDENT: Was there an answer to the question?

INTERPRETER: There was an unclear answer. I can clear

(Meyer-cross)

it up if you wish.

[illegible]: [illegible] the answer may [illegible]

[illegible]: The answer was 'Yes'.

[illegible]: I hadn't heard that.

[illegible]: [illegible]tion of Mr. McKay....

[illegible]: May I be heard, sir?

[illegible]: You may.

[illegible]: If it please the court, that's exactly what I am trying to find out. On direct examination, without qualification, this witness stated that the effect of rumor was such that if any one of his codefendants, co- riseners, had ever beaten a prisoner to death, he would know about it. I want to cross-examine on that point, sir. I want to learn the extent of the effect of rumor.

PRESIDENT: The court will be cleared.

(whereupon at 0930 hours the court was closed.)

(whereupon at 0940 hours the court was opened).

PRESIDENT: The court will come to order.

LT. BERKOWITZ: If the court please, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Col. Denson and Mr. Pinter who are absent on business of the prosecution, all of the defense are present with the exception of Maj. Oeding who is absent on business of the accused; all the accused are present with the exception of Niebuhr, Buddensieg, Oswalt and Schreiber, in the hospital, and Olschewski and Schmitz who are in the bunker, and Pinter....

LT. [illegible]: Pinter was taken to the waiting room and expects to be back shortly.

LT. BERKOWITZ: ... inter who has been removed to consult with his counsel. The interests of all these defendants are being taken care of by their respective counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

(Neye-cross)

- 7801 -

DEFENSE COUNSEL: [illegible]

prosecution has been relying right along on [illegible]

them and we have tried to keep it brief.

- 7802 -

(Neye-cross)

it up if you wish.

PRESIDENT: Is there an answer?

INTERPRETER: The answer was "Yes".

MR. BERKMAN: I hadn't heard that.

PRESIDENT: The motion of Mr. McKay....

MR. BERKMAN: May I be heard, sir?

PRESIDENT: Go ahead.

MR. BERKMAN: If it please the court, that's exactly what I am trying to find out. On direct examination, without qualification, this witness stated that the effect of rumor was such that if any one of his codefendants, co- prisoners, had ever beaten a prisoner to death, he would know about it. I want to cross-examine on that point, sir. I want to learn the extent of the effect of rumor.

PRESIDENT: The court will be cleared.

(whereupon at 0935 hours the court was closed.)

(whereupon at 0940 hours the court was opened).

PRESIDENT: The court will come to order.

MR. BERKMAN: If the court please, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Col. Hensen and Mr. Pinter who are absent on business of the prosecution, all of the defense are present with the exception of Maj. Oeding who is absent on business of the accused; all the accused are present with the exception of Bisbusch, Buddensieg, Oswalt and Schreiber, in the hospital, and Olschewski and Schmitz who are in the bunker, and Pinter....

MR. MAY: Pinter was taken to the waiting room and expects to be back shortly.

MR. BERKMAN: ... inter who has been removed to consult with his counsel. The interests of all these defendants are being taken care of by their respective counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

(Neye-cross)

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PRESIDENT: The court desires to know, Mr. Berkowitz, why some of these men are in the bunker.

MR. BERKOWITZ: May I ask the defense counsel that question, sir?

MR. HALL: In the case of Dr. Schmitz, he actually is not in the bunker, he is in the waiting room performing some written work at my request. I anticipated having a witness here for the purpose of interviewing Pinter and for that reason removed him. The witness didn't arrive and I have come back in to hear the decision of the court in connection with the matter on which it went into deliberation.

MR. BERKOWITZ: Olschewski.....(to Mr. McKay) Would you....?

MR. McKAY: Olschewski is sick in the bunker.

(discussion off the record)

MR. HALL: Neither Pinter nor Schmitz are sick.

PRESIDENT: The court understands that the reason that Schmitz and Pinter are out of the dock at the present time is due to the preparation of their cases; is that the idea?

MR. HALL: Yes, sir.

PRESIDENT: The only thing is, Mr. Berkowitz, I think the record should be explicit about these matters. The record should show the reason for the men not being in the dock; the statement of their being in the bunker is not sufficient. If they are ill in the bunker that's OK or if they are absent from the dock in preparation of the case and their interests are being taken care of in court, that's OK.

DEFENSE COUNSEL: In order to be fair to the prosecution, the prosecution has been relying right along on information that we furnished them and we have tried to keep it brief.

- 7102 -

(Neye-cress)

PRESIDENT: I realize that is not the fault of the prosecution but the senior defense counsel will see that the information given the prosecution is explicit.

DEFENSE COUNSEL: I will make it as explicit as the court wishes.

PRESIDENT: The objection of Mr. McKay is sustained. The motion of Mr. McKay is sustained. At this time the court feels it necessary to caution the assistant prosecuter Mr. Berkowitz to adhere to strict cross-examination. This court has give the prosecution over seven weeks to present evidence against these defendants. The prosecution was allowed all the time that they themselves considered necessary. The court feels that the prosecution was allowed ample time to submit evidence against the defendants. The court feels it necessary at this time to caution the prosecution it must adhere to strict cross-examination.

MR. BERKOWITZ: If it please the court, the prosecution in this case has not, in its own mind, violated any of the rules laid down for cross-examination. The prosecution feels conscientiously that they have adhered to the rules. No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION.

QUESTIONS BY MR. M'KAY:

Q Mr. Neye, when you spoke about the blockeldests organizing, did you use the word "organization" or the word "organise"?

A "Organisation". Without the SS knowing anything about it they united themselves, because of feelings of comradeship, with the kitchen personnel.

MR. M'KAY: If the court please, Dr. Wacker, I think, questions the translation.

DR. WACKER: I would like to make an explanation off the record. An error is in question.

(Neye-z redirect)

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PRESIDENT: This is on the record.

DR. WACKER: We have used this expression "organise" in the German language since the beginning of the war as to men getting something in an underhanded way. Whenever anyone talks about "organising" a loaf of bread he means that he got the loaf of bread without giving any marks for it or having stolen it or gotten it in some illegal way, and when anyone acquired objects in this way the general term "organised" would be used. Yesterday Noye made use of this term when he said that certain people in the block "organised" objects for the block and that he would have to reimburse these people for that and even yesterday it was clear to me that the prosecution misunderstood it and assumed that the witness was talking about an organization among the capos. As far as I knew nobody was ever talking about a union or an organisation except that the witness said "whenever the capos organised something", that is, got it illegally, and with that he meant they got it in an illegal fashion, and in that way we will have to pick up the thread again from here. I just wanted to point out to the court that the word "organised" is used in this respect among us.

PRESIDENT: The court was about to caution you, Dr. Wacker, to make your remarks as brief as possible.

MR. BERKOWITZ: If it please the court, may I---

PRESIDENT: Just a minute.

DEFENSE COUNSEL: May I suggest to the court that I think this word was used in very much the same way as "salvage" was used in the First World War or the word "liberated" is used in this war.

MR. BERKOWITZ: We are very thankful for counsels' very helpful aid but I should think that the witness should be allowed to testify to explain the meaning rather than the counsel.

PRESIDENT: Mr. McKay, I think you had an objection, did you not?

(Noye-redirect)

MR. M'KAY: Dr. Wacker called my attention to the interpretation here. I am not acquainted with German and I don't know.

PRESIDENT: There is some confusion on this point and the court suggests that the matter be clarified.

QUESTIONS BY MR. M'KAY:

Q Mr. Meye, when you used the word "organized" with regard to the blockeldests will you explain to the court just what you meant by that word?

A The blockeldests and the capos understood this word to mean reimburse the prisoners who worked under them in the blocks who had done clean up work and things of that sort, reimburse them with food, for example, which they got from the kitchen without letting the SS know about it, because the prisoners who went and got food like that would be liable to punishment when they brought it into camp if the SS caught them with the food, and therefore according to common sense comrades who did this would have to be rewarded.

Q When you used this phrase did you mean to convey anything about any kind of a club or anything among the prisoners?

A No.

PRESIDENT: Col. Wilson.

DEFENSE COUNSEL: I have a few questions in regard to these points of testimony which affect the accused generally.

QUESTIONS BY DEFENSE COUNSEL:

Q What period of time did the punishment company exist?

A The punishment company was the general rule in every concentration camp. In August, 1943 or September 1943, according to orders from Berlin, the punishment company was gotten rid of in Flossenburg.

Q During what period of time did the practice of compelling prisoners to go around carrying heavy stones, apparently as punishment, exist?

A In Flossenburg that was customary between the years 1939 and 1941.

Q Did you see it after 1941?

A No, I didn't see that any more although the punishment company still had to do hard work with little food.

DEFENSE COUNSEL: May it please the court, I move that the testimony of this witness in regard to prisoners being compelled to run around with/or carrying stones on the order of 80 to 100 lbs. be stricken on the ground that his testimony now shows that it was discontinued prior to the time when these charges began.

MR. BERKOWITZ: I would like to call the attention of the court to the tactics of the defense being employed at this time to impeach their own witnesses. This has happened now in two cases. I think a reference to the record will show that the present witness stated that there was an "organization" between the blockeldests and that he did not say that the blockeldests organized food. I think the record will also show that the witness also testified that when he was in Flossenburg after 1943 he was in the punishment company and that he carried stones.. The court has before it the statements made previously and the statements made presently and having all these facts in the record the court I presume and I know is competent to judge the facts without the necessity of striking the former testimony from the record.

PRESIDENT: I don't believe that was in the motion, Mr. Berkowitz, to strike out the former testimony from the record. Are you referring to the testimony of other witnesses?

MR. BERKOWITZ: No, I am referring to the testimony of this witness.

PRESIDENT: The court suggests that you stick to the present

motion. There was no effort on the part of Col. Wilson, as far as your motion was concerned, to strike any previous testimony. It's referring to the testimony of this witness.

MR. BERKOWITZ: I am referring to the testimony of this witness. The record will show, I believe, that this witness said that he was in the punishment company when he was there in 1943 and that he carried stones in this punishment company. Now Col. Wilson asks that that testimony be stricken. I say that the facts are all in the record and that the court can view the testimony of the man given previously and the testimony of the same witness now and with both these statements before it be able to weigh the testimony and give it its proper worth.

PRESIDENT: Anything further, Col. Wilson?

DEFENSE COUNSEL: In a case of this character with very sharp conflicts of interest between the defendants there is bound to be the necessity of doing what under other circumstances might be handled by attorneys on opposite sides of the fence. I don't want to be at all technical about the matter. My purpose is simply to bring to the court's consideration all the facts favorable to all accused who at this particular time are treated as hostile by the present witness. In other words, the capos are hostile to the SS men. As chief defense counsel representing every one of the 51 accused I feel it is my duty to point out to the court anything favorable to nonscapos, which Mr. McKay in his duty as representing the capos naturally cannot be expected to bring out. I don't mean that I am hostile to the capos, I'm not hostile to any man here, I'm representing them all. I am endeavoring to co-ordinate the defense efforts to bring all the facts before the court.

PRESIDENT: Go ahead, Mr. Berkowitz, but make it brief.

MR. BERKOWITZ: I understand the position of Col. Wilson and I understand that he wants to keep in the record only such facts as are favorable. However there is a conflict in the testimony and I

think that is for the court to judge and the motion should not be sustained.

PRESIDENT: The court appreciates the fact that this accused was called to the stand by Mr. McKay and not by Col. Wilson. The motion to strike is denied.

The court will take a half an hour recess.

(whereupon at 1005 hours the court recessed)

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(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business for the prosecution, all the personnel of the defense are present with the exception of Major Oeding and Mr. Hall who are absent on business of the accused, all accused are present with the exception of Buddensieg, Oswalt, Schreiber, who are sick in the hospital and Olschewski who is sick in the bunker and Dr. Schmitz and Pinter who are conferring with their counsel.

Let the record further show that the interests of those accused who are absent are being taken care of by their counsels.

If there are any spectators in the court room who expect to be witnesses in this case they will please leave the court room.

PRESIDENT: Redirect? Anything further?

MR. McKAY: Nothing further.

PRESIDENT: The court understands that the defense has rested as far as this particular witness is concerned?

MR. McKAY: Yes.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You testified as to an expelledpaper from the army. Can you give the court any more information about that matter?

A Yes.

Q Go ahead.

A I was expelled from the German army, was kept out of the German Army rather, because I had been in the penitentiary from

the year 1931 until September 1933.

Q Were you expelled from the German army, or dismissed from the German Army, or discharged?

A Expelled.

Q And that was based upon this previous penitentiary sentence, is that the idea?

A Yes.

Q Were you ever actually sworn into the Wehrmacht?

A No.

Q Now you testified further as to a beating you received in the presence of the camp commander and also the adjutant. Just who administered that beating?

A The commander and the adjutant.

Q Then the court understands that both the camp commander and the adjutant participated in this beating?

A Yes.

Q What was the nature of this beating?

A I was beaten with hands and kicked with feet.

Q Were you knocked out at that time, knocked down?

A I was made so weak and paralysed by the blows which I got on my face that I fell down on the ground.

Q Can you tell the court of any reasons for this action on the part of the camp commander or the adjutant?

A Yes.

Q What was the cause of it?

A I said at the beginning that I was ruled from the outside Camp Krendorf into Sudetenland because of an order which Commander Koegel issued and when I was in his room with him he asked me whether I would finally recognise nationalism and whether I would accept the mess and it came out that I was supposed to be sent to an SS unit in Dillewanger.

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It wasn't so easy for me to refuse it and for that reason I referred to the certificate from the army which excluded me from the army and when I had that he started using terrible scolding words, such as, "You old pig of a Communist; you old dog of heaven; you bandit with repeated offenses, you still haven't learned what it means to obey." And then the beating started which lasted around ten to fifteen minutes.

Q Relative to this SS unit that you were to be transferred to, where were they located?

A As far as I know this unit had fought in Poland and later on I know for certain it fought in Russia with the Partisans and they had burned down everything that got in their road. The SS unit Dillewanger was notorious, was well known.

Q Then the court understands that it was an SS combat unit, is that correct?

A Yes.

Q Now you mentioned further that you were sent to Flossenburg due to labor sabotage?

A Yes.

Q Can you give the court any more information relative to that statement?

A Yes. In 1939 the work commitment office in Berlin was after me and wanted me to work in an armament factory because I was a skilled handworker. I was an expert locksmith. I was sent to an armament factory and I had to build small cranes of five to twenty tons and because the manager of the plant saw that I did my work well he wanted to put me in a department where hand grenade valves were made. I didn't like this work any more and I didn't go there any more and thereupon I was asked to

appear before the director of the plant and he pointed out to me that it was unworthy of a German in time of war not to want to work. And after that I was arrested for the first time in November 1939. The first place I went to was Lichterfeld in Berlin and after I had been there about eight to nine weeks I came to the concentration camp in Sachsenhausen. I was there for four months, then I came to Ravensbrueck. I arrived in Flossenburg for the first time in 1941 and in the same year, 1941, I was sent back to Ravensbrueck and was released from Ravensbrueck in March 1942.

Q What was your main reason for not wanting to take this position or job in the grenade factory?

A In my dumb way of thinking I wasn't in favor of the war and I didn't share the political thoughts of Adolf Hitler.

Q The court desires to clear up this matter of the location of these various camps, such as Ganacker and Landau and the administration of these camps. Now just where was this Camp Ganacker located?

A The Camp Ganacker was located on the airfield. The prisoners who worked there were quartered in a hangar. This Camp Ganacker must have been located ten or fifteen kilometers away from the city of Landau as far as I could see and according to that the camp where I was staying must have been located fifteen to twenty kilometers away from the city of Landau.

Q Any reference to the air-strip then in your testimony is really referring to Camp Ganacker, is that correct?

A Yes.

Q Can you tell the court whether or not the camp at Landau was under the administration and the jurisdiction of Flossenburg or do you know?

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A I don't know exactly. We were given our food there and taken care of by the administration of the air force.

Q In other words the camp at Ganacker?

A Landau where I was.

Q But you mentioned you secured your food from where?

A From the air force administration, Ganacker.

Q In other words Camp Ganacker?

A Yes.

Q Do you know definitely whether or not your camp at Landau was under the jurisdiction of Ganacker?

A That's humanly possible to assume. I don't know it exactly.

Q And the camp in the wood at Landau was just how far from the camp at Ganacker?

A At the most four or five kilometers.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q You stated that you were released from the concentration camp in March 1943, then you were rearrested later. Why were you sent a second time to the concentration camp?

A I wasn't released in 1943. I was released from Ravensbrueck in March 1942.

Q Then why were you rearrested?

A When I was being released I got the order from the commander of Ravensbrueck at that time who was Max Koegel to report to the room of the Gestapo in Berlin, Alexanderplatz. I went there immediately and the Gestapo official who was there explained my mission to me and he said it about like this: "You pig, you don't want to work. Do you at least have any desire to

be a secret agent?" And I was supposed to go into the largest firms in Berlin and denounce Germans and foreigners who worked there and who said discriminatory things against the government of the country. The most important thing that was drummed into my head was that I should report how the people talked about food and their rations. For the time being I had no choice. I said, "Yes" and "Amen" to everything so that I could get home as quickly as possible. I just couldn't make a go of it and six weeks later I was arrested again.

Q Now getting back to the two camps, Camp Landau and Camp Ganacker,, was there railroad service in the Camp Ganacker?

A There was a small field railroad built on the air-strip in Ganacker. The passenger railroad went past my camp.

Q Then there was a railroad service into Camp Landau?

A The railroad didn't go into the camp directly. The railroad went past the camp at the end of the forest.

Q What I'd like to know,was it possible to get food supplies and provisions from the railroad into Landau or were they unloaded at Camp Ganacker?

A I don't know whether any food was transported on the railroad. I only know that a truck loaded with food often came into my camp at Landau from the air force squadron located in Ganacker.

QUESTIONS BY LAW MEMBER:

Q I want to ask you another question about your camp. After your 800 people arrived at Camp Landau that made a total of approximately how many people there?

A Those with me were 800 to 850 prisoners, no more than that.

Q Were there any prisoners there besides the contingent that went along with you?

A Those with me, they were prisoners on the air-strip.

Q You said that was Ganacker though?

A That was Ganacker.

Q Were there any other prisoners besides your contingent at Landau when you went there?

A There was still one other outside camp called Plattling.

Q How far was that from Landau?

A I was just about to say that; where that was located I don't know. I only met these prisoners when they were on the evacuation march from Plattling.

Q Now you say that there were approximately 800 people living in the camp at Ganacker?

A They later on came to us and the entire personnel then amounted to around 2,000 men, if I haven't estimated it too high. I don't know completely certain.

Q I understood you to say yesterday it was around 200. Is that the correct number, around 2,000 or 200?

A The prisoners which came to us in Landau from Ganacker could have been around 2,000 prisoners.

Q Was Landau sufficiently large to take care of 2,000 prisoners in addition to the prisoners you already had there?

A Yes, the round earth huts to the forest were empty at that time and the people who came from Ganacker then were quartered in them.

QUESTIONS BY THE PRESIDENT:

Q Do you recall a witness by the name of Louis Martin who appeared before this court and testified against you?

A I know a witness, a Frenchman with the name Louis Martin who appeared here as a prosecution witness against me.

Q Did you ever have any difficulties with Louis Martin?

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A I had no personal differences with Louis Martin. I was amazed when he appeared here as a witness against me. He was a decent, friendly comrade. That is I had one little run-in with him in regard to delousing and washing but I never hurt the prisoners.

Q Do you recall a witness by the name of Adam Silverberg who appeared before this court and testified against you?

A I most certainly will never forget that man as long as I live.

Q By what name was that man known on previous occasions when you knew him

A We prisoners had been together only a short time. It was impossible for us to know his name, the name of the party in question, but he told us his number and I said to myself, "Why is he giving us the wrong number"

Q Did you recognize that as being a wrong number at that particular time?

A No I didn't know it then.

Q Was he ever known as Silverberg as far as you know in your contacts with him"

A No, but I do remember that among the prisoners in Landau around the time when the prisoners were coming from Dannecker among the prisoners there of Landau the name Silverberg or something like that did get mentioned once in awhile.

Q Was the name Silverberg mentioned with respect to this man that appeared as a witness before this court? The court is referring to a time previous to Silverberg coming before the court?

A No, I didn't know that his name was Silverberg and I didn't see him in the camp. The only time I was with Silverberg was on the morning that we marched away and when I saw him I

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recognised him again more exactly. I remembered him because of his hair and his elongated face, although in the camp we ran around with shaved heads, we hadn't had our hair cut for five or six weeks, and I recognised him because at that time he had curly hair. I also recognised his elongated face and the bright eyes which he had when he stood in front of me then.

Q You testified as to certain difficulties which you had with Silverberg. Just when did those matters take place?

A We were standing in a corner on the day before we marched away from Landau and the Isar. We were standing in a corner. The prisoners were standing in a formation like this along here and along here (Indicating). The kettle of feed with the soup was behind me like this (Indicating). And next to that a mountain of bread and about two or three meters away from the bread next to a tree the sick prisoner was lying.

Q What was the nationality of this sick prisoner?

A That was a Hungarian Jew.

Q Go ahead.

A I saw him and I wanted to bring him over to the others who were standing next to the wall. They were the ones who were supposed to remain in the camp. It was impossible for them to make the march with us. I couldn't do that but at any rate it was possible for me to put a whole loaf of bread into the arms of the sick man. Then I gave him a little soup and I told him, "Pull yourself together, eat and drink. You certainly can't make your exit now in the last hour." And then I went up ahead to my marching block. I wanted to be with the men because my block consisted mostly of Russians and I was scarcely one minute or one and a half minutes away before I heard shouting and instinctively since I recognized from which direction the cries came I said to myself,

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"Somebody has stolen bread away from that sick man", because I had the feeling that such an action was on the order of the day and then I went over there and I already saw that a Czech had given Silverberg some boxes on the ear. My witness, Hans Jaeger, was standing there next to the scene. He told me what was going on and he told me with chopped words because it was impossible to speak friendly any more and when I saw that he had taken the bread away from a man who was half-dead and lying in agony I was seized with rage and I beat him up. These words which I have described were broken words because I was talking to foreigners but we could always make ourselves understood.

Q When you mentioned about beating him up, you were referring to Silverberg, is that right?

A Yes.

Q What were the nature of these blows that you administered to Silverberg? The court is referring to whether you used any instruments or not.

A I didn't use any object, any weapon.

Q The court would like to know whether or not there was sufficient bread for everybody on that particular occasion?

A In that moment everyone had half a loaf of bread, everyone had enough to eat but other times the food was extraordinarily insufficient.

Q Did you have any further difficulties with Silverberg?

A Yes, one more run-in with him.

Q What was the nature of that?

A He also took food away from another sick prisoner who was lying in a round earth hut in a forest. I would like to correct myself here. He didn't take it away from the prisoner but

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he embezzled it, saw to it that he didn't get it. The medic who was there must have told him to do this because the medic was standing there right close by but I couldn't find out for sure whether he did or not and he told Silverberg to get the food for the sick man. Silverberg went and got it and ate it himself. I went over there and started investigating and after a long talk, beating around the bush, I found out that Silverberg had eaten the food himself. I went over to him and shouted at him and scolded him. I said, "You rogue, you scoundrel, get out of my sight."

Q Did you do anything further to Silverberg at that time?

A I did not beat Silverberg then.

Q Did you have any further trouble with Silverberg at any time?

A No.

QUESTIONS BY LT. COL. SKIELVIG:

Q When you received this food from Ganacker was the food already prepared or did you have to prepare it in the kitchens at Landau?

A No, we had a kitchen in Landau on the Isar River and the food was prepared there.

Q The food which you received from Ganacker, did you draw that from the airfield there or did you draw it actually from the Camp Ganacker? In other words, did you draw it from a Luftwaffe supply or did you draw it from the camp supply?

A That came from the air force squadron. That is all we got was bread and potatoes, nothing more.

Q Then none of that came from Ganacker at all except what came from the air corps there?

A From the squadron, air force squadron, not from Ganacker.

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Q Going back to the three or four weeks in which you were ordinarily in block 7 when you had to make these trips from the kitchen to your block with the food, how many times were you attacked by these groups of men during that period?

A Three times.

Q And how many men would you say were usually in these groups that attacked?

A 100 to 120 prisoners of all nationalities.

Q Did you at any time remember using the ladle to repel these attackers?

A No, I always went from block 7 to the kitchen with my prisoners without ever carrying any object, never had one with me.

Q Did you at any time in distributing the soup use that ladle to protect the food from people who might be seeking to grab it from you?

A An attack like that never occurred in the block.

QUESTIONS BY THE PRESIDENT:

Q Do you desire to tell the court about any difficulty that you may have had with a Polish Jew at Landau or later on the march from Landau?

A I never had differences, personal differences with anyone except with Silverberg and the blockeldest in block 3.

QUESTIONS BY LAW MEMBER:

Q Do you know whether or not Silverberg was a Polish Jew?

A I didn't take such a good look at Silverberg. I didn't see him that often. I don't know whether he wore a "P" or a "U" on his number.

Q Did you have any trouble with any Polish Jew other than Silverberg?

A No.

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QUESTIONS BY THE PRESIDENT:

Q Just where was it that Silverberg gave out this number?

A Here in front of this court in the small hall over there.

Q Had he ever indicated that number in your presence at Landau or any other place?

A No.

Q You had no opportunity to check Silverberg's serial number on any previous occasion?

A No. The time is too late, I don't know what kind of a number Silverberg wore at that time.

Q Then your knowledge as far as this number mentioned to have been given by Silverberg was from the court room itself, is that correct?

A Yes, the number which Silverberg made known here in this court room.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. McKAY: Nothing further.

PRESIDENT: Cross-examination?

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Did this beating of Silverberg take place immediately prior to the evacuation of the camp?

A Yes.

Q And you marched off immediately thereafter?

A Yes.

Q Did Silverberg go with you; did Silverberg march off in the evacuation march with you?

A I don't know that. I took care of my own comrades. I was worrying about them.

Q Are you sure that this was Silverberg; are you sure that

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it was Silverberg whom you beat?

A I am quite sure, Mr. Prosecutor.

Q Did you beat anybody else at that particular time?

MR. McKAY: The question is objected to as argumentative in form and exceeds the scope of cross-examination.

PRESIDENT: Objection overruled.

A I didn't give any more beatings.

Q Now Mr. Silverberg is quite obviously alive, isn't he?

A Yes. That's up to Silverberg. He should only tell about the truth. I don't say that he lied.

Q Now I said he's obviously alive?

MR. McKAY: That's objected to as argumentative.

MR. BERKOWITZ: I'll withdraw the question.

Q Now are you quite certain that the victim of the beating that you administered on that occasion directly prior to marching away on the evacuation survived that attack by you?

A That's Silverberg, that's the man I beat and Silverberg described an incident where I was supposed to have beaten a prisoner in the forest. Silverberg wasn't the only one who knew that. The whole camp knew it also Mr. Major sitting over there must know about that.

Q And the Major saw that beating just prior to the marching away from the camp in the woods?

A I don't know that. I don't know. I never saw the Belgian Major in my life before?

Q Did you say the whole camp saw that beating?

A Yes.

PRESIDENT: Mr. Prosecutor, let's be specific. What major is he referring to?

MR. BERKOWITZ: I'm referring to the beating alleged to have

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been the beating of Silverberg.

PRESIDENT: The court is referring to the statement by the witness that a certain major may have seen him. For the purpose of the record the court would like to have that matter clarified. There may be half a dozen majors in this court room.

Q Which major, do you know?

A The major who was here on the witness stand and said that he knew me. I didn't see him at any rate. If he was with me in the camp then he was perhaps a modest prisoner who never caused any attention. I couldn't pay attention to each individual prisoner but I was hot after any prisoners who stole bread or food away from the other prisoners because we didn't have much to eat.

Q All right now, answer my question.

A Yes.

Q When you marched away from Ganacker were some of the prisoners left behind?

PRESIDENT: Mr. Berkowitz, the court feels there is still some confusion. It is necessary to straighten the record out. Have him indicate just who he is referring to if he is in the court room point him out so the record will be clear.

MR. McKAY: What about the last question?

MR. BERKOWITZ: I'll withdraw the last question.

Q When you referred to the major who testified in this proceeding whom do you mean, will you indicate him, will you point him out?

A (Indicating) The one who is sitting over there on the bench behind you.

Q You mean Major Matyn?

A I don't know his name.

MR. BERKOWITZ: If the court please, let the record show that the witness indicates Major Matyn who has previously testified

(Neye-Cross)

in this proceeding.

Q When the evacuation march left the camp in the woods did all the prisoners leave?

A No, some of them stayed behind.

Q Were those the sick prisoners?

A Yes.

MR. BERKOWITZ: That's all.

PRESIDENT: Redirect?

MR. McKAY: Nothing further.

PRESIDENT: Further questions by members of the court? Apparently not. The court understands the defense rests as far as this particular witness is concerned?

MR. McKAY: That's correct, sir.

PRESIDENT: The witness will be excused and resume his place in the dock.

(Whereupon the witness was excused and resumed his seat in the dock.)

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

MR. McKAY: May it please the court, the next witness is being called on behalf of the accused No. 25. Call Leonhardt Mathoi.

LEONHARDT MATHOI, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY: Will you state your name for the court?

A Mathoi, Leonhardt.

Q Where do you live, Mr. Mathoi?

A Fuessen, Tiroler Street 43.

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Q What is your present occupation, Mr. Mathoi?

A A conductor on the railroad, railroad station.

Q Do you have a brother, Karl Mathoi?

A Yes.

Q Did you ever know an SS lieutenant colonel by the name of Koegel?

A Yes.

Q Will you explain to the court the nature of your acquaintance with Col. Koegel?

A Yes. I only knew Koegel by looks, by looking at him, by sight. Earlier Koegel had been in Garmisch. He had a dairy which he had received, he had rented. Koegel went to Fuessen from Garmisch and went into the roof factory in Fuessen as undermaster. When the SA came he worked himself up by means of the SA to a high position and got into the SS as a lieutenant colonel. I tried to do everything for my brother. I went to the city council and I went to the Gestapo in Munich twice.

Q Will you explain why you tried to do everything for your brother, Karl?

A I said to myself, "There must be one person who will take up the matter of my brother and I'm the one for that because everything in the camp will die anyway."

Q Where was your brother, Karl, at this time?

A He was up in Auschwitz. He had been already in the penitentiary for three years because he had been accused of treason in Aschendorfermoor on the Dutch border.

Q When your brother completed his prison term do you know what became of him?

A He came from Aschendorfermoor to Auschwitz, to Augsberg to have a medical examination.

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PRESIDENT: Court will take a short recess.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order. Mr. McKay, the court feels there is some confusion about the matter of the time in the testimony of this particular witness. You mentioned about at that time. The court feels in order to avoid any further confusion the matter should be clarified.

Q Mr. Mathoi, do you know where your brother, Karl, was in the year of 1943?

A In the year 1943 I stopped Mr. Koegel and asked him whether there wasn't any chance of my brother getting free.

Q What did you mean when you said, "Was there any chance of my brother getting free?"

A I wanted to see my brother free.

Q Did you know at that time where your brother was?

A Up in Auschwitz.

Q Was he living there?

A No, he was there in arrest.

Q Will you explain to the court the nature of your conversation with Koegel in 1943 with regard to your brother, Karl?

A I was at the main street, Koegel came up to me, I stopped Koegel and said: "Lt. Col, isn't there any chance of my brother being set free?" He said, "Is your brother still sitting there, still in arrest?" "Yes", I said, "At the present time he's in Auschwitz", and he said, "How long has he been up there already?" "Two years", and he said to me, "The only thing I can advise you to do is to write to the security office, Prince Albert St., No. 7." And in the presence of Koegel I wrote that down. I was about to say goodbye. Koegel called me back. "Mr. Mathoi, please wait a minute. I will attempt to get your brother from Auschwitz and bring him to me in

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the camp. I often drive up to Auschwitz but don't write your brother because you know that every letter is censored." I promised him I would do that and he told me not to tell anyone about the conversation because he said that he was afraid that he as a commander of the camp would be talked about if it were found out that he was helping a prisoner.

Q Did you know at that time during that conversation what commander Koegel was talking about?

A Yes, he told me he would bring him to Flossenburg.

Q Following this conversation that you had with Koegel did you ever learn whether your brother actually went to Flossenburg or not?

A Only my comrades. I only told my comrades who had the same ideas as I did that it was very probable that my brother would come to Flossenburg.

Q At a later date did you ever receive any kind of communication from Karl advising you as to his whereabouts?

A Yes. Four or five weeks later I got a letter from my brother in Flossenburg, "Dear Brother, I am now in Flossenburg —".

Q Mr. Mathoi, where is that letter at the present time?

A I gave most all the letters to the English headquarters in Eckernfoerde.

Q Why did you give these letters to the British authorities?

A I was with the navy.

Q Were you in the navy during this war?

A Yes.

Q Have you ever made any attempt to try to get those letters again from the British government?

A Yes. I came from Bathaven to Halle. In Halle our ship was sunk.

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Q Mr. Mathoi, I don't believe you understand me. Since the time that you turned over these letters to the British authorities have you made any attempt to get those letters back?

A Yes.

Q And were you able to get those letters back?

A No.

Q Do you recall in your own mind what the contents of those letters that you received from Karl after he had arrived at Flossenburg?

A Yes.

Q Will you explain the contents of those letters to the court?

MR. BERKOWITZ: If it please the court, I object to the introduction of any self-serving declaration that may have been made by the defendant prior to this. The witness is not permitted to introduce testimony of that character where he creates his defense and then tries to produce it into court.

Underhill, on page 480, under the paragraph which is headed "Declarations which are Self-serving are Rejected", says:

> "The theory back of this rule is that such evidence is not rejected because it may not aid in finding the truth, but because in the majority of instances it is false and misleading, and a person charged with crime cannot make evidence for himself."

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PRESIDENT: The court understands these letters were written during 1943?

MR. McKAY: He stated it was after the conversation of '43.

PRESIDENT: The objection is overruled. The court will adjourn until one-thirty this afternoon.

(Whereupon the court at 1200 hours adjourned until 1330 hours, 12 September 1946.)

(L. Athoi-Direct)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused; and all the accused are present, with the exception of Eisbusch, Buddensieg, Oswalt, and Schreiber, who are sick in the hospital, and whose interests are being taken care of by their counsel. Any spectators in the courtroom who expect to be called as witnesses in this case will please leave the courtroom.

LEONHARDT MATHOI, called as a witness for the defense, resumed the stand, and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. MCKAY:

Q Mr. Mathoi, will you explain to the court the contents of the letters which you received from your brother, Karl Mathoi, following your interview with Lieutenant Colonel Koegel.

A Yes.

MR. BERKOWITZ: If it please the court, I object to witness testifying to the contents of a letter; the best evidence would be the statement of the defendant himself. Defendant is present in the court and he can tell what transpired there. A letter would be secondary evidence and as such would not be admissible.

PRESIDENT: The court understands, Mr. McKay, that the letter is not available. Is that not correct?

MR. MCKAY: That is right. Prior examination of this

witness shows that the letters were turned over when he was discharged from the Navy to British authorities. He has tried to get those letters but has been unable to do so. He knows the contents of the letters and I am now asking him to explain the contents to the court.

PRESIDENT: The court understands that these letters were directed to the present witness. Is that not correct?

MR. MCKAY: Yes, sir.

MR. BIRKOWITZ: If it please the court, the letters were written by a man who is available and they were letters about the camp at Flossenburg and the best evidence would be testimony by the writer of those letters.

MR. MCKAY: If it please the court, there is no such rule that I know of. If a matter is in writing and the writing can not be obtained, then a person who is acquainted with its contents can reveal them. That is an exception to the best evidence rule.

MR. BIRKOWITZ: If it please the court, the letters are about conditions at Flossenburg. The best evidence of what conditions were or what this man thought conditions were, would be from the man who wrote the letters. The letters would be only secondary evidence.

PRESIDENT: Under the circumstances of the case, the fact that the writer of the letters is one of the accused, in this particular case it would be entirely up to the defense and the accused himself whether or not he takes the stand. The objection is overruled.

MR. MCKAY: Will you repeat the question please.

(Whereupon the reporter read the question as follows:

"Mr. Mathoi, will you explain to the court the contents of the letters which you received from your brother, Karl Mathoi, following your interview with Lieutenant Colonel Koegel."

A My brother wrote me a letter four weeks later as he arrived in Camp Flossenburg. He wrote as follows: "My dear brother, you do

not know what it means to be camp eldest in a camp under a man like Koegel who is very rough and who expects everything. But, at any rate, Koegel seems to think that I am too soft. Koegel called me up to report to his CP. 'Mathoi, do you know now why I did call you up here? The only reason I had you come up here to Flossenburg is to do your brother a favor because your brother is a decent fellow for otherwise I would rather have you back in Auschwitz.' Koegel also requested me to do something about it several times but I refused that. He said that he was too soft and that he couldn't use him. My brother also wrote me that even if you had the best position in camp it still didn't matter; the best thing would be to be free, "For you don't know what it means to be behind barbed wire for seven years and not knowing when you would regain your liberty. Often one would be close to putting a bullet through one's head if one had only an opportunity, for one gets run down into such a condition and one's nerves break down to such an extent in camp when one does not know when one will be free. Koegel promised me repeatedly that I would be free but it never happened." After that a few weeks later another letter arrived.

Q What happened to that letter?

A "Dear brother, right now I am in the—"

Q Just a minute, Mr. Mathoi, I asked you what has become of that second letter that you have spoken about?

A I turned it over to the British headquarters.

Q And have you tried to recover that letter again?

A Yes.

Q Were you able to do so?

A No.

Q Was that letter addressed to you?

A Yes.

Q Will you explain to the court the contents of that letter.

A "Dear brother, right now I am in the stone quarry as a blacksmith in the blacksmith shop. My hands are injured already. Of course, Koegel only wanted to see whether I would request to be sent back into camp from the blacksmith shop. No, I remained strong; I stayed out there. But I was pulled back in anyway and was put under the command of Schmidt." About that time, then, another letter arrived.

Q And what has happened to that third letter you talk about?

A I turned it over to the British headquarters too.

Q Have you tried to recover that letter?

A Yes, all these letters which would be very important are up there.

Q - Have you tried to get this third letter back yourself?

A Yes.

Q And what result did you have?

A I tried to get all these letters back but I didn't get them. At one time I tried to request them back through Mr. Zimmermann at the Military Government.

Q Was this letter addressed to you?

A Yes.

Q Will you explain the contents of this third letter to the court.

A My dear brother, Koegel promised me a nine day furlough in the near future but all this is to no avail--nothing but promises and promises and more promises. Excuse me for interrupting myself again--I received a furlough in September and had to be back in October." And a telegram arrived from my brother, sent from Fuessen.

Q Where is that telegram?

A That's up at the British headquarters.

Q Have you tried to recover that telegram?

A Yes.

Q What result did you have getting that telegram?

A The telegram was sent to Godenhaven.

Q Was the telegram addressed to you?

A Yes.

Q Have you been able to obtain that telegram since you turned it over to the British authorities?

A No.

Q Will you explain the contents of that telegram.

A Dear brother, I'll return on the furlough. At this time I am in Flossen.

Q At any time after you learned that your brother Karl was in Flossenburg did you ever see him personally?

A No.

Q Do you think you could recognize your brother if you saw him again?

A Yes.

Q Will you look at the man sitting behind me in the dock and see if you can point out your brother Karl to me.

A The fourth one from the left, in the third row.

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 25 as his brother Karl.

Q Are you definitely sure that these letters which you described to the court were written by your brother Karl?

A Yes.

Q And how could you determine that?

A There were many letters that came through without censoring.

Q And where were you at the time that you received these letters?

A In Gedingen.

Q And what were you doing, at the time you received these letters?

A I was serving as a sailor with the Third Security Fleet.

Q Have you been discharged as a prisoner of war?

A No.

MR. MCKAY: You may cross-examine.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Do you know the date of this first letter?

A '43, in August or something like that.

Q The date of the second letter?

A Four weeks later.

Q And the third?

A The letters arrived about four weeks, five weeks to six weeks.

Q And the date of the telegram?

A '44, in November.

Q Did you get any other letters from your brother?

A One more.

Q Now, did these letters come through the mail?

A Yes.

Q Do you know where they were mailed?

A Our APO was in Berlin.

Q Do you know where your brother deposited them in the mail?

A No.

Q Did they bear any indications as to where they were written?

A Well, the last letter, that is, the telegram, came from Duessen.

Q Was there any postmark on the letters?

A Well, that was the APO number.

Q Well, was there any indication that they were sent from Flossenburg?

A Well, some of the letters were from Flossenburg and the telegram was dated Duessen.

(Kathol-Cross)

PRESIDENT: The court wants to verify this matter of an APO. When you refer to an APO do you refer to your own address?

WITNESS: No, I had an APO number myself—Berlin.

PRESIDENT: And you mean that the letters were addressed to the APO number?

WITNESS: No.

PRESIDENT: Will you tell us what you mean in connection with the use of the APO number with respect to these letters.

WITNESS: Well, the letters were addressed through this APO number because I did have that APO number.

PRESIDENT: Now, Mr. interpreter, is he actually using the expression "APO"?

INTERPRETER: Yes, so far as I can see.

PRESIDENT: Is he using that actual expression "APO"? That's what the court wants to know—or is he referring to a post-office?

INTERPRETER: He is referring to an organization similar to the Army post-office, the Fleet post-office, in the United States service.

PRESIDENT: The court wants to caution you in the interpretation. The court knows of no arrangement of that nature—an APO connected with the German Army—so the court wants the exact interpretation. If it is a post office, we want it called a post-office. I want you to endeavor to verify that matter.

INTERPRETER: The literal translation is field post-office.

PRESIDENT: That is entirely different.

Q Were these letters addressed to you through a field post-office?

A Yes.

Q Did these letters indicate that they came from a field post-office?

A Yes.

(Mathoi-Gross)

(Haberl-Direct)

Q Did they indicate that they were mailed at Flossenburg?

A No. I only drew that conclusion because they did not go through censorship and because they were not stamped with red ink.

Q What kind of envelopes did they have?

A Blue envelopes—business envelopes.

Q And was there any stamp on them indicating the post-office at which they were mailed?

A Well, Flossenburg, the stamp of Flossenburg, the post-office Flossenburg.

Q Did they bear any marks of censorship?

A No.

MR. BERKOWITZ: That's all.

MR. MCKAY: No redirect.

PRESIDENT: Questions by members of the court? Apparently none. Any further questions by defense?

MR. MCKAY: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: The next witness is being called on behalf of the accused No. 15, No. 26 and No. 20. Call Anton Haberl.

ANTON HABERL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name for the court.

A Anton Haberl.

Q Where do you live, Mr. Haberl?

A I live in Augsburg.

Q What is your present business or profession?

A I am an agent now—a travelling salesman.

Q And for what firm do you now travel as an agent?

A For myself—I am independent.

Q And what do you handle as an agent?

A Pictures and frames—picture frames.

Q Mr. Haberl, were you ever a prisoner in Flossenburg?

A Yes.

Q When were you a prisoner in Flossenburg?

A I was a prisoner in Flossenburg from May '43 until the end of April '45.

Q Why were you sent to Flossenburg as a prisoner?

A I was sent to Flossenburg because I had said that the National Socialists were a brown bunch of robbers who were going to be hanged after the end of the war.

Q And what kind of a prisoner were you classified as while you were in Flossenburg?

A I was wearing a red triangle.

Q What did the red triangle mean?

A That I am a political prisoner.

Q During the time that you were in Flossenburg what barracks did you live in?

A I lived in different barracks, primarily Block 4.

Q How long did you live in Block 4?

A I might have lived in Block 4 for a year and a half.

Q And when did you begin to live in Block 4?

A Well, I might have gotten there perhaps a quarter of a year after my being sent there.

Q And what month did you arrive in Flossenburg?

A I arrived at Flossenburg in May '43.

Q And during the time that you lived in Block 4 did you ever come in contact with another prisoner known as Watzke?

A Yes.

Q What duties did you observe Mataka perform while you were in Block 4?

A Mataka arrived from Auschwitz. He was sent to my table, and later on distributed the food.

Q During the time that you lived in Block 4 did you become acquainted with Mataka?

A Yes, he was sitting at my table.

Q When you say he was sitting at your table will you just explain what you mean?

A That was in the barracks, and we talked some because everybody had a single place while eating, and he was sitting there.

Q Now, during the time that you lived in Block 4 and knew Mataka did you have an opportunity to observe how he treated his fellow prisoners?

A Yes.

Q Will you describe for the court just what you saw with regard to Mataka's treatment of fellow prisoners?

A Mataka, in my opinion, seems to have been somewhat nervous, perhaps due to the long term of imprisonment, and I noticed rather frequently that if he was kicked in the crowd which, of course, was not always possible, that he nervously turned around and pushed.

Q Did you ever see him do anything else with regard to the treatment of prisoners?

A I later relieved him at this job and prisoners asked me and actually begged me to keep this job so that Mataka would not get the job again.

Q What was Mataka's physical condition during the time that you knew him?

A Mataka became seriously ill later.

Q Do you recall when he became seriously ill?

A That might have been about in October 1943—no, October 1944.

Q Do you know what the nature of that illness was?

A He had joint rheumatism.

Q Will you explain to the court how long Mataka remained in his sick condition in Barracks 4?

A Mataka was seriously ill for about two weeks and he was not able to get up, not to speak of eating.

Q You say that he was ill in the barracks for two weeks. What happened to him after this two weeks?

A I fed him like he was a little child and when I saw I couldn't help him any more I wrapped him up in some blankets and took him over to the hospital.

Q Did Mataka return to Block 4 from the hospital?

A He returned to Block 4 for a few days.

Q Do you know what happened to him after those few days?

A He was then sent away and was transferred to Block 1.

Q Do you know of any reason why he was transferred to Block 1?

A He was sent to the kitchen to help with the cooking there.

Q Did you ever have occasion to visit with Mataka after he had started to work in the kitchen?

A I visited him once or twice, I can't say exactly.

Q Can you recall the date that Mataka left Block 4 to go to the kitchen to work?

A Well, a few days--well, how long did he stay in the hospital--he was in the block only a few days and then he was transferred so it must have been in December perhaps.

Q December of what year?

A December '44, I assume--no, '43--no, '44.

Q Now, during the time that you lived with Mataka in Block 4 were you acquainted with the reputation that Mataka had among the prisoners?

A Yes.

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Q Will you explain to the court just what that reputation that Matske had among the prisoners in Block 4 was?

A Particularly the Russians couldn't bear him.

Q What do you mean by that?

A He issued the food there and as he issued the food they thought, of course, that one of them was receiving favors and the other one was receiving less.

Q Did you ever observe any trouble arise because of that?

A Yes.

Q Will you explain that to the court?

A He was relieved as a man in charge of distributing food and was no longer permitted to distribute food.

Q Did you ever observe any conduct by Matske towards the other prisoners following such incident?

A Yes.

Q What was that?

A I didn't notice him changing in any manner whatever.

Q How many people were living in the block at the time that you knew Matske there?

A I think there must have been about 400 men.

Q Was that in the entire block?

A No, I think only in the B wing--we were 800 of us.

Q Which wing did you live in?

A B wing.

Q Which wing did Matske live in?

A B wing too.

Q During the time that you lived in Block 4 did you ever become acquainted with a man by the name of Heinisch?

A Yes.

Q How long were you acquainted with Heinisch in Block 4?

A Heinisch was lying next to me in bed all the time since he arrived from Auschwitz. That was half a year, I think.

Q During the time that you knew Heinisch for this half a year did you observe his behavior towards other prisoners?

A Heinisch was very calm.

Q Will you explain to the court just what you saw with regard to Heinisch' behavior with regard to his fellow prisoners?

A Well, for instance, I saw frequently that when Heinisch had something left he would give it away to hungry prisoners.

Q Did you observe anything else?

A Later on Heinisch, I think, became something like a group leader and as such he had some responsibility.

Q During the time that you lived with Heinisch in Block 4 did you observe him perform any particular duties in relation to the block?

A Heinisch withdrew from all these details like scrubbing the floor after awhile—he didn't do them any more. And then he also got sick.

Q Will you describe generally the type of man that you observed Mr. Heinisch to be during the period of time that you knew him in Block 4?

A Since he was wearing a green triangle he explained to me how he happened to be wearing that green triangle.

Q Q Can you describe anything else about him as you observed him there in the block?

A Well, Heinisch was not unpopular in the block—not even among the prisoners.

Q What do you mean, he was not unpopular?

A The prisoners liked him well.

Q Did you ever have an opportunity while you lived in Block 4 to observe how Heinisch treated his fellow prisoners?

A I never saw that he really beat them.

Q What do you mean when you say you never saw that he really beat them?

A Heinisch was very quiet; he got along very well with everybody.

Q During the time that you lived in Block 4 did you ever know a man by the name of Giesecke?

A Yes.

Q How long did Giesecke remain in the block with you?

A I can't say that with certainty any more but I think a year.

Q Do you think that you could recognise Mr. Matake if you saw him again?

A Yes.

Q Will you look over the men who are seated in the dock behind me and see if you can find the man that you know as Matake?

A Yes.

Q Will you point him out to me.

A (Witness indicates.)

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 26 as Matake.

Q Do you think that you could recognise the man you knew as Heinisch if you saw him again?

A Yes.

Q Will you look over the men who are seated behind me and see if you can find the man you knew of as Heinisch.

A Yes.

Q Will you point him out to me.

A Here (indicating)

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 20 as the man by the name of Heinisch.

Q During the time that you were living in Block 4 will you explain to the court just what would happen with regard to rumors among the prisoners in the event that one prisoner would beat another prisoner so severely that he would die?

A At any rate I would have heard about it.

Q Did you ever hear of such thing occurring during the time that you lived in Block 4?

A I didn't find out that anybody was actually beaten to death.

Q During the time that you were in Block 4 did you ever have any occasion to use the washroom?

A Yes, daily.

Q Will you describe what equipment was there provided so that you could take care of your toilet in the morning?

A In the morning there was a long sink room with six or seven faucets on the left and on the right, a drainage pipe on the bottom, a little wooden contraption with buckets containing sand and things.

Q Can you give the court any idea of how long those sinks were where the faucets were located?

A Two meters and a quarter long, perhaps.

Q And how many of those were there in the wash room at that time?

A One on the left and one on the right—two of them.

Q How wide were these sinks?

A They were round and at the top they might have been 35 to 40 centimeters wide.

Q Can you give the court an estimate of how deep they were in centimeters?

A If the sink was all filled up it might have been about 35, 40—no, 35 centimeters deep.

Q Now, did you observe any other containers in the washroom which were used to contain water for washing purposes?

A Yes, there was one other little faucet on the side with a little sink.

Q How big was that sink?

A It was semi-circular and might have been about 30 by 30.

Q How deep was that in centimeters?

A 35 centimeters too.

Q Will you explain to the court what the condition would have been as far as rumors were concerned in Block 4 if one prisoner would have drowned another prisoner in one of those wash basins in the washroom.

MR. BERKOWITZ: If it please the court, that question is objected to as calling for a conclusion on the part of the witness. Witness is here. He may be asked what he saw and what he heard.

PRESIDENT: Repeat the question, please.

(Whereupon the reporter read the last question.)

PRESIDENT: What is the basis of the objection again?

MR. BERKOWITZ: It calls for a conclusion on the part of the witness as far as what rumors might have been. The question is speculative. The question is vague. If the defense wants to find out if he heard about a certain man doing a certain thing that would be proper examination but the question of this sort is vague and speculative and calls for a conclusion. I think defense counsel is competent to ask a proper question without putting it in leading form. I have heard quite a few leading questions this afternoon and haven't objected to them.

PRESIDENT: The objection is sustained.

Q In the event that a prisoner would have drowned another prisoner in the washroom in Block 4 during the time you lived there would there have been any rumor among the prisoners?

A MR. BERKOWITZ: That is objected to again, sir, as being vague and speculative. The word "rumor" among the prisoners is

undefined. The court is interested in knowing what the prisoner saw and heard. I object to the question as being speculative.

PRESIDENT: Objection is sustained.

Q During the time that you lived in Block 4 was there ever any discussion among the prisoners about other prisoners who lived in the block?

A Yes.

Q And what was the nature of those conversations?

A We held conversations about almost anything, in fact, I even talked politics with some of them.

Q Was there ever any discussion with regard to how prisoners treated each other?

A Yes.

Q Did you ever hear of any such discussions with regard to Mr. Heinisch during the time you were in Block 4?

A Yes.

Q Will you describe the nature of those discussions?

A I talked to Giesecke rather frequently about this matter of treatment. Of course, we condemned the whole affair, and we considered the whole treatment crazy. Giesecke wanted to put me in some place as a group leader and I said in a place where insanity triumphs I don't want to have any position. I also talked about the treatment with Heinisch. I often told Heinisch that these men are half starved; they are stubborn; their reactions aren't normal any more.

Q You spoke about Russians not liking Mr. Matzke. Do you know the reasons that these Russians didn't like Matzke?

A Matzke was the group leader in the nose assembly plant and up there he was very nervous and the Russians thought that he had been treating them unjustly, but Matzke was expected to get his work done, and if that work would not have been done then, if you will excuse my expression, he would have to stick his rear end out. And

so, of course, they thought that he was rough or unjust. Of course, if he had thought the matter over better perhaps he might have done it differently.

Q Well, did you ever hear these Russians complain about the treatment that Hatake gave them?

A Yes, they themselves told me that.

Q And what did they tell you?

A They told me that Hatake shouted at them and if they didn't do what he wanted them to he pushed them then.

Q Did he tell you anything else?

A That he was rough; that he said, "If you don't do what I tell you then I will beat you".

Q You stated that you relieved Hatake from work from some detail. What was that detail that you relieved him on?

A That was as group leader in the nose assembly plant in the airplane plant.

Q Are you acquainted with the conditions that that detail was working under during the time that Hatake was in charge of it?

A Yes, quite exactly.

Q Will you explain these conditions to the court?

A The capo we called Emma, he was an extremely decent person. He had been a member of the Communist party before and he had been in dark arrest for many years. Above all, he was a person who treated everybody justly and the prisoners could be happy that they had a capo like him and not, as we called them, a habitual criminal. And Emma asked me about three times to take the job of group leader as Hatake was sick. And on the third time I said yes, that I would consent to doing it.

Q What do you mean when you say that Hatake was sick?

A We were together in the nose assembly plant. He was group leader and I was a worker.

Q Yes, but you said he was sick during that time. I want you to explain that.

A Well, as he got sick then I became the group leader.

Q Will you explain to the court what the conditions were with regard to the work output during the time that Matake was in charge of this particular detail in the Messerschmidt factory?

A It was demanded by the capo that a report be made every night of the amount of work that had been completed. If that work was not completed then the capo was severely punished. Of course, he pressed and saw to it that this work would be completed. Frma was such a person that there were many severe sick persons around. He permitted them to keep sitting next to a fire and told the rest of them "Be reasonable; do their work for them".

PRESIDENT: Let's cut out the noise among the dock. Continue.

A When I became group leader he put up some guards so that the others would be able to sleep when there was no work for the block was so overcrowded there were four or five of us on one mattress and three mattresses on top of each other. So I gave a riveting hammer to some man standing next to a door so that they would make a big racket whenever somebody would come around so that the others would wake up and start work.

Q Do you know what would have happened to Matake if he had mistreated prisoners working under him as a group leader?

MR. WERKOWITZ: Objected to as calling for a conclusion on the part of the witness.

PRESIDENT: Objection sustained.

Q During the time that you were in Flossenburg did you ever become acquainted with a man by the name of Ginschal?

A I only knew him from seeing him.

Q What did you observe Ginschal doing at the time you would

see him in the camp.

A I saw that Ginschel was a man who saw to it that whenever the Russians got some extra rations in the evening that this would take place in an orderly manner. I don't know whether he did this voluntarily or whether he had been ordered to do that.

Q And where would these surplus rations be distributed to these Russians?

A They were distributed in various manners. One time this detail would receive the extra rations, the next time the forest detail would.

Q In what place in the camp would this distribution of surplus food take place?

A That was in front of Block 1.

Q You think that you could recognise Ginschel if you saw him again?

A Yes.

Q Will you look over the men sitting behind me and see if you can recognise the man you knew as Ginschel. You may step right down in front of the table here.

A I really should be able to recognise him, at least by his arm.

PRESIDENT: Take your time.

A Here is Ginschel (indicating.)

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 15 as Ginschel.

Q You stated that Mr. Meinisch wore a green triangle. Will you explain to the court whether the fact that a man wore a green triangle while you were in Flossenburg made any difference in his treatment of other prisoners.

MR. BERKOWITZ: If it please the court, that is objected to as calling for a conclusion on the part of the witness. It is also

speculative.

PRESIDENT: Objection sustained.

Q During the time that you were in Flossenburg, can you give the court any idea of the number of persons that you observed wearing green triangles?

A Well, in Flossenburg there really were many, many more with green triangles than there were with red.

Q Were all of the people who held any kind of a position such as block eldest or capo in Flossenburg persons who wore a green triangle?

A At first, yes, there were almost entirely men with green triangles.

Q Did that ever change?

A Later on men with green triangles would be called to the armed forces and men with red triangles also then became capos and got other jobs.

Q During the time that you were in Flossenburg did you observe any difference in the treatment of prisoners who occupied the position as capo who wore a green triangle or a red triangle?

MR. B RKOWITZ: If it please the court, that is objected to on the grounds it calls for a conclusion of the witness and invades the province of the court.

PRESIDENT: Repeat the question, reporter, please.

(Whereupon the reporter read the last question.)

PRESIDENT: Objection overruled.

A Yes, — well, at first the green ones received preferential treatment, and then when the so-called Staubchen—he was a major, adjutant or something—came in he made us fall out and said well, now, the red ones are to be capos too. And then it improved for the red ones too.

(Haberl-Direct)

Q Prior to the time that you came to Flossenburg, did you ever hear of it prior to that time?

A I beg your pardon.

Q Did you ever hear of Camp Flossenburg prior to the time you were incarcerated there?

A No.

Q Did you ever occupy any kind of a position in the camp such as capo, block eldest or the like?

A No. I was group leader for six weeks. That was neither capo nor block eldest.

Q Just what did a group leader actually do?

A The group leader had to see to it that material would be available. He was, so-to-speak, the handyman of the capo.

Q During the time that you were acquainted with Heinisch in Block 4, do you know what detail he worked on?

A Yes,he was in the Messerschmidt works too.

Q Do you know whether he held any kind of a position there?

A At one time he told me that he was supposed to become capo.

Q Did he ever actually become that?

A I don't think so; I think he was assistant capo for some stretches of time.

PRESIDENT: Court will take a half hour recess.

(Whereupon the court recessed at 1500 hours.)

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, let the record show all personnel of the court are present, all personnel of the prosecution with the exception of Col. Denson who is absent on business for the prosecution, all of the personnel of the defense with the exception of Major Oeding and Mr. Hall who are absent on business of the defense, all the defendants are present with the exception of Buddensieg, Oswalt and Schreiber who are sick in the hospital.

The witness is reminded that he is still under oath.

If there are any spectators in the court room who expect to be called as witnesses they will please leave.

PRESIDENT: Mr. McKay, continue.

MR. McKAY: I have completed my direct examination. You may cross-examine.

PRESIDENT: Cross-examination?

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q I understand you lived in block No. 4?

A Yes.

Q Did you ever hear of anything about one prisoner holding another under water there until he drowned?

A No.

How long did you live there?

A Approximately a year and a half.

Q Knowing the conditions there in that place, if one

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prisoner had held another one under the water to the extent that he drowned him would it become common knowledge around there?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. McKAY: Nothing further.

PRESIDENT: Prosecution.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Were you in block 4 in January '45?

A Yes.

Q Do you know were there any Polish Jews in that block at that time?

A Yes.

Q Do you know a Polish Jew named Jankien?

A No.

Q Do you know what happened to him?

A No.

Q Were you in the block on Sunday mornings?

A I can't say exactly. Sometimes we worked on Sunday.

MR. BERKOWITZ: That's all.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did you ever hear of a man being held naked under water for a period of time?

A No.

PRESIDENT: Further questions by members of the court?

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PRESIDENT: Colonel Jackson.

QUESTIONS BY COL. JACKSON:

Q Which wing of block 4 did you live in?

A Wing B.

Q If such an incident would have happened in wing A would you have known about it?

A Yes. The prisoners would have gone to the campeldest and he would have forbidden such things.

QUESTIONS BY LT. COL. SMYLY:

Q Did you ever hear of anyone in the camp being beaten to death?

A Yes, in the quarry.

Q But not in the camp?

A No.

QUESTIONS BY THE PRESIDENT:

Q Can you give the court any facts about this matter of a prisoner being beaten to death in the quarry?

A I've heard people talk in the camp about prisoners being beaten to death in this stone quarry by a certain obercapo.

Q Just who are you referring to?

A I can't think of the name at the present time. He was a short man.

Q Is he in the dock at the present time? Would you know this man if you actually saw him?

A I'm not certain but I think so.

Q Do you know his name?

A I can't think of it right now.

Q You say he was an obercapo in the stone quarry?

A Yes that was said. I also was told in the camp that he had beaten prisoners to death on various occasions.

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Q When was that? The court is referring as to just when this incident is alleged to have happened.

A I can't give the exact date. I was just told that that had happened. I can't remember the date.

Q Well step down from the witness stand and see if you can identify the individual that you have in mind, who has been alleged to have been connected with these various incidents. Just take your time and don't be hasty about any identification.

A I can't recognize him.

Q You don't remember his name?

A I have forgotten the name. If someone tells me the name I'll remember it.

Q Just when was he supposed to have been an obercapo in the stone quarry?

A '43 - '44.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect?

MR. McKAY: No, sir.

PRESIDENT: Prosecution?

MR. BERKOWITZ: Yes.

CROSS-EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Did you ever hear of any beatings in the camp to such an extent that the victims had to be removed to the hospital?

MR. McKAY: This is objected to as improper cross-examination and argumentative, and repetitious.

PRESIDENT: Objection overruled.

A I've heard about beatings but I didn't pay any attention

to find out whether these people were taken to the hospital.

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Q If you heard about beatings did you bother to find out whether the victims died?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Further questions by members of the court? Apparently not.

A (Continuing) I couldn't have changed that anyway.

PRESIDENT: Defense anything further?

MR. McKAY: Nothing further.

PRESIDENT: The witness will be excused.

MR. McKAY: The next witness is being called on behalf of the accused No. 48. Call Karl Mayer.

KARL MAYER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court?

A Mayer, M-a-y-e-r.

Q Your first name?

A Karl.

Q Mr. Mayer, where are you now at the present living?

A In Munich.

Q Where are you residing at the present time?

A Here in Dachau in the bunker.

Q Are you being held here by the American authorities?

A Yes.

MR. McKAY: If it please the court, due to the fact that this man is being held prisoner by the American authorities I have

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advised him of his rights of self-incrimination but request that the court do it again.

PRESIDENT: The court desires to advise the witness to the effect that if any incriminating question should be asked you you have a right to request the court to refrain from answering. Do you fully understand?

THE WITNESS: Yes.

QUESTIONS BY MR. McKAY (Continuing):

Q Mr. Mayer, were you ever a prisoner in Flossenburg?

A Yes.

Q When did you leave Flossenburg?

A August 18, 1943.

Q Were you in Flossenburg on 1 January 1942?

A No.

Q Where were you then?

A In Dachau.

Q When did you come to Flossenburg?

A December 7 or 8, 1942. I can't give you the exact date.

Q How were you classified as a prisoner in Flossenburg?

A How am I to understand that, how I was classified?

Q What color triangle did you wear?

A Political, red.

Q Did you ever hold any position in Flossenburg while you were there?

A Yes.

Q What position did you hold?

A I was blockeldest and from April '43 until August '43 campeldest.

Q During the time that you were campeldest did you ever come in contact with a man by the name of Weilbach?

A Yes.

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Q What duties did Weilbach perform when you knew him?

A During my time he was a camp capo.

Q What do you mean by camp capo?

A As a camp capo he had to supervise the work being performed inside the camp.

Q During the time that you knew Mr. Weilbach did you have an opportunity to observe him working with his prisoners?

A Yes.

Q Will you describe to the court just how Weilbach treated the prisoners when you saw him working?

A During my time Weilbach treated the prisoners correctly, beyond reproach.

Q During the time that Weilbach was camp capo will you explain to the court whether or not there were any public executions held in the camp?

A I do not think so.

Q What do you mean you do not think so?

A During my time so far as I know there were no public executions. There were two executions I know of but that was in the arrest courtyard but Weilbach was not present there.

Q Did you ever have any conversations with Weilbach?

A Yes.

Q Did he ever tell you how he was treated prior to the time that he was camp capo?

MR. BERKOWITZ: If it please the court, that's objected to as hearsay. The best evidence is available here. Hearsay is intended only when the evidence is not here. Weilbach is available to defense to be called or to take the stand on his own defense if he wishes to prove what occurred. It's true that hearsay evidence is admitted but that is only in the case where

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other evidence is not available.

MR. McKAY: In the first place it's not hearsay because it's a conversation directly with one of the accused and for the second reason it's up to the court to determine what relevancy and materiality it has. This court is asked to judge the responsibility of each of these men under the conditions which existed at Flossenburg during the time that they were there and the court is entitled to know that.

MR. BERKOWITZ: If it please the court, the court has the right and should know what the conditions were but the court should get that from the most direct evidence and from the best evidence. For this witness to say what somebody else told him, what the conditions concerning the time prior to his appointment as a capo is hearsay and should not be admitted when the man who underwent those conditions whatever they may have been is here to testify and is available to the defense.

MR. McKAY: This again is another attempt merely to try to force an accused on the stand which is his right and his right alone.

PRESIDENT: Objection overruled.

A Yes.

Q Explain what he told you to the court.

A He was talking about Dachau and that they kicked his teeth out.

MR. BERKOWITZ: If the court please, I ask that that be stricken. It's irrelevant.

PRESIDENT: The motion of the assistant prosecutor, Mr. Berkowitz is sustained.

Q Will you confine your remarks to what he told you about mistreatment in Flossenburg?

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A Once he received 25 blows because one of the prisoners took off and that he had lost his parents while being in camp. Other than that I don't remember anything.

Q As campoldest were you superior to Meilbach at the time he was camp capo?

A No.

MR. McKAY: You may cross-examine.

MR. BERKOWITZ: If it please, may I have this marked as Prosecution's Exhibit No. 66 for identification.

(The document referred to was marked Prosecution's Exhibit No. 66 for identification.)

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Mayer, I show you this document that's marked Prosecution's Exhibit No. 66 and ask you if this is your signature?

MR. McKAY: If it please the court, this is objected to for the reason that it is not shown the purpose for which this is being shown to the witness. If it is an attempt to impeach by an inconsistent statement the proper foundation for introduction of such has not been laid.

MR. BERKOWITZ: If it please the court, I am not introducing it in evidence at the present time. I am merely having it identified and I ask permission to do so.

MR. McKAY: If it please the court, the only time that this document can be used is where it is shown to be connected with cross-examination and that has not been established.

MR. BERKOWITZ: If the court please, I am not using the document. I am merely identifying it.

MR. McKAY: Then it's objected to as not proper cross-examination.

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MR. BERKOWITZ: If it please the court, I'm not examining on it. I'm identifying it and I'm laying the basis for its use.

PRESIDENT: The objection of the defense counsel is overruled for the time being. At the same time the defense counsel may have an opportunity to renew the objection subsequent to the identification. The court understands that there has been no offer to introduce this document in evidence. You are simply going into the matter of identification, is that correct?

MR. BERKOWITZ: That's correct.

PRESIDENT: All right, proceed.

A Yes.

Q Mr. Mayer, on the 13th of August 1946 at Dachau were you interrogated by Major Matyn?

A (Indicating) If that's the major over there, yes.

Q Will you indicate Major Matyn?

A (Indicating) The second gentleman over there.

MR. BERKOWITZ: If the court please, let the record show that the witness identified Major Matyn as the man before whom he appeared for an interrogation on the 13th of August 1946 at Dachau.

MR. McKAY: I object to the entire use of the statement for the reason that the major is here as a diplomatic representative of the Belgian War Crimes with no authority to act for the American War Crimes in conducting any kind of an investigation and the statement is irrelevant and immaterial to this court. Under the rules setting up War Crimes investigations is the fundamental principle that it must be taken by a duly authorized investigator of the American War Crimes.

MR. BERKOWITZ: If it please the court, I'm not introducing this into evidence at the present time and the

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argument of defense counsel is premature in that respect. I want to interrogate this witness as to some of the things he said about the defendant Weilbach in the course of that interrogation.

PRESIDENT: The court desires further information, Mr. Prosecutor, as to the nature of this particular document for identification, the authority for the investigation.

MR. BERKOWITZ: Sir, I'm not introducing the document at the present time nor introducing evidence concerning the interrogation at the present time but I'm trying to find out from the witness whether or not it is true that he said certain things in the course of that interrogation.

PRESIDENT: The court will give you an opportunity to further identify the document. Court will be closed.

(Whereupon the court was closed at 1615 hours.)

(Whereupon the court was opened at 1625 hours.)

PRESIDENT: Court will come to order.

MR. PINTER: May it please the court, let the record show that all the members of the court are present, all the members of the prosecution are present with the exception of Col. Benson who is absent on business for the prosecution, all the counsel for the defense are present with the exception of Major Seding, all of the accused are present with the exception of Buddensieg, Oswalt and Schreiber who are in the hospital. The witness is reminded that he's still under oath and if there are any spectators in the court room who expect to be called as witnesses they will please leave the court room.

PRESIDENT: The court understands, Col. Wilson, that the interests of those accused who are not present in the dock at the present time are being taken care of by counsel?

DEFENSE COUNSEL: That's correct, sir.

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PRESIDENT: The objection of the defense counsel, Mr. McKay, is overruled.

KARL MAYER, called as a witness by the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

CROSS-EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Mayer, in the course of the examination I referred to did you or did you not make the following statement?

PRESIDENT: Just a minute. I think you had better amplify that question, Mr. Berkowitz.

MR. McKAY: I object with reference to this prior statement for the following reasons; that it has been disclosed that it was taken by the official representative of the Belgian Government with War Crimes here. There is no showing that this statement was voluntarily made or that this witness was ever advised that this statement would be used against him in this or any other trial. It is well known that the system of Belgian law and criminal proceeding is entirely different than our own and that unless those rights have been protected prior to the time the statement was taken such statement is not admissible under our concept of American justice and procedure.

MR. BERKOWITZ: If it please the court, various members of the United Nations have organized War Crimes investigating teams, the purpose being to cooperate with each other and to furnish each other information to see that War Crime Nationals who may be guilty of offenses against Nationals of each other may not avoid punishment by being in the hands of one nation or another. They are all working under the same jurisdiction and they are cooperating for just such purposes as this. The witness has been warned of his

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rights. If it please the court, I can assure you that this statement made by the witness does not concern himself but it concerns the defendant Weilbach for whom he has just testified. I have a right to ask him what he said. I'm not introducing the document in evidence at the pres nt time. It's already been ruled upon. I submit that the question is proper.

MR. McKAY: If it please the court, it is obvious that the intent that the prosecution is now using is for purposes of impeachment and there is no foundation for that. And, furthermore, this is the American War Crimes Trial center. We have investigators here. If the prosecution want that information why don't they call on American investigators? Why are foreign investigators used when they are absolutely unnecessary?

MR. BERKOWITZ: If the court please, that's exactly what I'm doing. I'm laying the ground-work now to impeach that witness.

PRESIDENT: Mr. Prosecutor, can you assure the court that this particular witness was warned of his rights before making that statement?

MR. BERKOWITZ: If it please the court, I know that the witness has just been warned of his rights by the court and if there's any question or the answer to the question which might tend to incriminate him he has a right to refuse to answer.

PRESIDENT: But I understood you to state just a moment ago that this particular witness had been warned of his rights before making this particular statement and you assure the court to that effect, is that correct?

MR. BERKOWITZ: I did not say that, sir. I said the witness has been warned of his rights, referring to the court's statement at the time he took the stand. I have asked him nothing

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which would tend to incriminate him but merely something which he said about Weilbach. I may also state to the court that in order that a document be introduced in evidence in cases of this nature it is not necessary that it be shown that the witness was warned of his rights and under those conditions the court is entitled to give the document such weight as it sees fit.

PRESIDENT: Your use of the document up to the present time is purely from the standpoint of identification, is that correct?

MR. BERKOWITZ: That's correct.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

QUESTIONS BY MR. BERKOWITZ (Continuing):

Q Now, Mr. Mayer, when you were examined by Major Matyn on the 13th of August 1946 here in Dachau, did you make the following statement? Will you translate this statement?

(Whereupon the interpreter translated the statement in question as follows:)

INTERPRETER:

"(A) The capo in this detail was Weilbach, Georg. I did not know from where he was. Weilbach was a beast.

"(Q) Were you beaten in his detail?

"(A) Yes, I picked up potatoes and he met me, that is Weilbach, and without any reason at all came up to me and said, 'You are also a red one', and he hit me in the stomach."

MR. McKAY: Now the introduction of this statement is objected to for the reason that it is not shown that the statement sought to be used for impeachment. It is contrary to the statement made by the witness on the stand. It is not being shown the period of time or the place that that particular statement refers to.

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[illegible] the court, [illegible] this witness this question [illegible], the court to give his answer such weight as it sees fit.

[illegible] question overruled.

A Yes.

[illegible]

[illegible]

[illegible]

Q Mr. Ray, when you made this statement before [illegible] to any physical violence.

[illegible]

Were you [illegible] if you made this statement

No.

Q Was it explained to you why this statement was being taken?

No.

Prior to the time that you made this statement did you or [illegible] this statement might be [illegible] in a court of law a point [illegible].

Mr. Bradley: If it please the court, that question is objected to as being irrelevant. The statement is not being used against the witness.

The objection is sustained.

Mr. [illegible], I will ask you this statement to [illegible] at what portion of it you did you intend to cover by this statement.

The objection, I [illegible] 'it'.

You may [illegible].

Now this is [illegible] you intended to [illegible] by this statement by [illegible] yourself.

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A Within the camp.

Q What is your nationality?

A German, Bavarian.

Q And in this statement you refer only to the treatment Weilbach gave to you, is that correct?

MR. BERKOWITZ: If it please the court, the statement speaks for itself. I believe the words were Weilbach was a beast. I object to the question as being misleading.

MR. McKAY: This is redirect examination. The prosecution has put forward a statement which they allege is inconsistent with the statement this witness has made on the stand and I'm trying to show that there is no inconsistency. The treatment of any of these accused against a German national is not covered by the Charge and Specification in any way.

MR. BERKOWITZ: If it please the court, the question is further objected to because it is leading. We are not asking the man Weilbach be tried for his treatment of Mayer but it is introduced for the purpose of impeaching and showing that his former testimony must be incorrect when a few days ago he stated that Weilbach was a beast. Object to the question further as being leading.

PRESIDENT: Please repeat the question.

(Whereupon the question was read by the reporter.)

PRESIDENT: The objection of the prosecution is sustained on the basis that it is a leading question.

QUESTIONS BY MR. McKAY (Continuing):

Q At the time that you made this particular statement were you referring to Weilbach's treatment of other prisoners or of yourself?

MR. BERKOWITZ: Objected to as leading.

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PRESIDENT: Objection overruled.

A Only to his treatment toward me.

MR. McKAY: That's all.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Mayer, what did you mean when you said Weilbach was a beast?

MR. McKAY: Objected to as repetitious.

MR. BERKOWITZ: I don't think that question has been answered.

MR. McKAY: It's irrelevant and immaterial and it now discloses that the treatment is of this man and not of other prisoners.

PRESIDENT: Objection overruled. Proceed.

A Because of the bad reputation he had from the stone quarry.

Q From your observation of Weilbach did he continue to deserve that reputation?

A As long as I was in Flossenburg I never saw that he beat or mistreated prisoners.

Q And you left Flossenburg in August '43?

A Yes.

Q You don't know anything about his treatment of prisoners at any other time?

A I did not see anything because I wasn't there.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q You stated that Mr. Weilbach had a bad reputation from the

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stone quarry. Did the fact that the punishment company worked in the stone quarry in which he was obercapo have any effect upon his reputation?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection sustained.

Q Mr. Mayer, will you explain to the court whether at the time that Weilbach was obercapo in the stone quarry the punishment company was located there?

A I don't know that. When I arrived in camp he was already camp capo. He was not in the stone quarry any more.

MR. McKAY: That's all.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: Questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q I understood you to say that Weilbach beat you, is that correct?

A Yes.

Q On one or more occasions?

A One.

Q You stated that Weilbach was a beast, is that correct?

A I can't recall whether I used that word.

Q Well, the statement was just read to you and you admitted you had made that statement, is it correct or not correct?

A Yes that's correct.

Q You have just said also that he had a very bad reputation for treating the prisoners in the stone quarry, is that correct?

A Yes.

Q Did you know that when you first testified here a minute ago under direct examination?

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A How was that?

Q You must have known that when you testified here under direct examination a few minutes ago, didn't you?

A What must I have known?

Q That he treated the prisoners very badly. You testified that he was a beast and you also testified that he treated the prisoners very badly in the stone quarry, is that correct?

A I did not say that here. I did not say here that he was a beast or that he mistreated prisoners badly in the stone quarry. I don't know that.

Q There seems to be some confusion here. You have testified here in your direct examination that he treated the prisoners correctly and you also testified that he treated them beyond reproach.

A That is correct. I stated that.

Q In answer to the prosecution on cross-examination you have just told the court that Weilbach was a beast and that he treated the prisoners very badly in the stone quarry, do you recall that?

MR. McKAY: I regret to do this but I must object to the Law Member's question because it is not proper, because it is not a proper statement of the facts as shown here. The statement which is referred to by the Law Member is the statement that was made to Major Matyn and not to this court.

MR. BERKOWITZ: If it please the court I think the witness did say that he called him a beast because he stated here that he called him a beast because of his bad treatment of prisoners at the quarry.

LAW MEMBER: I'll rephrase the question.

Q In your statement which you gave to the major from [illegible] you stated that Weilbach was a beast. You recall that do you?

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A Yes.

Q You also testified that Weilbach had a bad reputation for treatment of prisoners in the stone quarry?

A Yes.

Q If that is true why do you come here and tell the court that Weilbach's treatment of the prisoners was correct and beyond reproach?

A The treatment of prisoners by Weilbach was beyond reproach while I was in camp as the campeldest. That is what I stated.

Q Upon what do you base your idea that he was a beast?

PRESIDENT: Dr. Wacker?

DR. WACKER: I would like to have the situation clarified because in Bavaria a beast and bestie are two different things. There are two different meanings of the word bestie and beast in German.

LAW MEMBER: That may be.

Q What do you mean when you say "beast"? Do you mean "beast" or "bestie" or just what do you mean by that?

A Beast.

Q What do you mean by "beast"?

A Under "beast" I understand a man to be neither good nor bad. I never used the word "bestie".

RECROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now what do you mean by the word "bestie"?

A Bestie is a man who is capable of doing anything. He is rough and brutal and apt to do anything.

Q Now I show you again document marked Prosecution's Exhibit No. 66 for identification and ask you what this word is?

A Bestie.

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Q And that is the statement which was signed by you?

A Yes.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LT. COL. SKINLVIG:

Q On what date did this beating take place, this beating of you by Weilbach, what month?

A During the first days after I had arrived in Flossenburg in December.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LT. COL. SMITH:

Q Now, this period over which you judged his treatment as beyond reproach, did that beating take place during that period you said you judged him on?

A No.

Q Well now considering the period during the time that he beat you how would you judge his treatment of prisoners during that period? Would you say it was correct and beyond reproach then?

A I judged these treatments differently during my old days in the concentration camp and judged the treatment of new arrivals also differently.

Q Well just how did you judge the treatment of prisoners by Weilbach during that particular period in which you say you got beatings from Weilbach?

A I can only talk about myself because he only beat me. I did not see him beat others.

Q I'm not asking you that. Answer my question please.

A Not directly.

QUESTIONS BY THE PRESIDENT:

Q What was the extent of the beating that you received from Weilbach?

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A I received two or three fist blows in the stomach.

Q Were they light or severe?

A They were not particularly severe because he was just passing by.

Q Did you feel that the action on the part of Weilbach on that particular occasion was justified?

A No.

Q What was the capacity of Weilbach at the time he beat you?

A Camp capo.

Q Considering the beating that you got from Weilbach on that particular occasion, considering those various rumors that you heard with respect to Weilbach with reference to the quarry, do you still feel that Weilbach's treatment of prisoners was beyond reproach?

A Despite of his treatment and bad reputation from the stone quarry, considering those matters, considering these various rumors that you had heard relative to the treatment of prisoners by Weilbach in the quarry, considering those matters, do you still feel that Weilbach's treatment of prisoners in general was beyond reproach?

A I can't judge that. I don't go by stories. It is an old experience of mine that things are being exaggerated. I did not see anything and I did not see what he was doing in the stone quarry.

Q Well, did you feel that Weilbach's treatment of you was correct and beyond reproach?

A No.

PRESIDENT: Any further questions or remarks of the court? If not, not. Redirect?

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MR. McKAY: Nothing further.

PRESIDENT: The court understands that the defense is finished with this particular witness?

MR. McKAY: At the present time. This witness may be recalled for another accused later on.

PRESIDENT: The witness will be excused.)

(Whereupon the witness was excused.)

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1700 hours.)

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Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG

PAGES 3565 - 3634 incl.

Case No. .....

Prosecutor .....

*Summary
*Intermediate Military Court.
*General

Defence Counsel .....

Place Dachau, Germany

Interpreter .....

Date 13 September 1946

Reporter .....

~~Members of Court~~

WITNESSES:

SOEHNER, Adolf John
LIEBEL, Eduard
PERGMULLER, Josef
GRAU, Willy

Accused Friedrich Becker, et al

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term .....
  - Beginning 194
- Fine
  - Amount .....
  - To be paid before 194
  - or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

In trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

13 SEPTEMBER 1946 0910 hours to 1557 hours
Pages 3565 - 3634 incl.

T E S T I M O N Y

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	COURT
SCHENER, Adolf John	3566	3573			3578
LIEBEL, Eduard	3575	3582	3589		3589
		3591	3592		3592
BERGMUELLER, Josef	3593	3610	3620		3620
			3625	3626	3626
			3627		
GRAU, Willy	3630				

CAMP DACHAU, GERMANY
13 September, 1946

MORNING SESSION.

(Whereupon at 0910 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Maj. Oeding and Mr. Hall who are absent on business of the accused. All the accused are present with the exception of Buddensieg, Oswalt, Schreiber and Risbusch who are sick in the hospital. The interests of these men are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Mr. McKay.

MR. M'KAY: The next witness is being called on behalf of the accused #25. Call Adolf Seehner.

May it please the court, this witness is going to testify in English. He speaks English and was in the United States for ten years.

PRESIDENT: He wants to speak in English?

MR. M'KAY: Yes.

PRESIDENT: The court understands that you desire to testify in English?

MR. SOEHNER: Whatever you decide, sir.

PRESIDENT: Whatever will be more convenient to you.

MR. SOEHNER: It makes no difference to me, sir.

PRESIDENT: All right, go ahead and testify in English.

MR. M'KAY: May he be sworn?

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ADOLF JOHN SOEHNER, called as a witness by the defense, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

QUESTIONS BY MR. M'KAY:

Q Will you state your name.

A Adolf John Soehner.

Q Where is your home?

A Fuessen.

Q Where are you at present employed?

PRESIDENT: You will have to wait each time until the interpreter translates anyway for the benefit of the defense.

A Yes, sir. At the present time I am working for War Crimes---International War Crimes in Neurnburg with the Personality Security Office.

Q Mr. Soehner, were you ever in the United States?

A Yes, sir.

Q When was that?

A I entered the United States.....I first came to Canada in 1924, February 26th. I got a visa to the United States on the 7th of February, 1926 and I stayed there until I was called back when my father died here in 1933 in April.

Q During the time that you were in the United States did you make application for American citizenship?

A Yes, sir, on the 1st of May, 1926 I applied for my first papers and in 1932 I applied for my second citizenship papers, which was approved, but before I was sworn in a cablegram came and called me back on account of my father being sick and dying.

Q When did you actually return to Germany again?

A April, 1933.

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Q Why did you remain in Germany?

A I had to remain in Germany because my father left me his business. My father had the intention that I run his business as long as and as good as he did. My mind was to sell the business as soon as my father was dead. I had at that time political difficulties with the special commissioner in Duesseldorf. I went to the Land Finance Department and I asked them how much money I would be allowed if I left the country and they told me 100 marks. The estate I inherited amounted to at least 90,000 marks and I didn't want to leave with 100 marks. In fact with all the money I had in Germany I felt that the law might be changed some day and the regime of Adolf Hitler would not last long enough.

Q During the time that you were in Germany did you ever become a Party member?

A On account of the trouble I had with the Special Commissioner Koegel I took the advice of my at that time living father and entered the Party, which Koegel asked me to.

Q Did you ever hold any kind of a position in the Party?

A No, sir.

Q What were your activities with regard to the Party during the time that you were in Germany.

A I cancelled my membership in 1934 already. My cancellation was not accepted. The Special Commissioner Koegel had me followed up and for minor ideas, for working hours, for all working hours which were allowed in Germany at that time, he had me pinched four times to cure me of my anti-Hitler ideas.

Q During the period of the Hitler regime and the war did you ever have anything to do with prisoners of war who were trying to escape from Germany?

PROSECUTION: I object to the question, may it please the court, on the ground it is immaterial and irrelevant to the issues in this case.

MR. M'KAY: If it please the court, this question is intended to give the court a full background of this witness who is going to give some testimony to this court which is very important and it is important the court know all of his connections before his testimony is given.

PROSECUTION: May it please the court, there has been no attack made on this witness up to the present time and it is not necessary that he make any self-serving declarations at all. That testimony is incompetent and irrelevant to the issues presented by the case. If, after cross-examination, this man has been attacked I submit that would be the proper time.

PRESIDENT: The objection is sustained. Your question is also leading, Mr. McKay.

QUESTIONS BY MR. M'KAY:

Q Seehmer, how long have you been employed by the American CIC?

A I am employed by the CIC since the first day that the troops entered the town. I was the man that surrendered the town on account of my activities for the past five years in connection with prisoners of war.

Q Are you acquainted with a man named Karl Mathei?

A Yes, sir.

Q Did you ever have any acquaintance with Karl Mathei in the year of 1944?

A Yes, sir.

Q Will you explain to the court the nature of that acquaintance with Karl Mathei in the year of 1944.

A In 1944 Mathei paid a visit to me. The very first or

second day that he arrived in his former home, the town of Puessen, he visited me. Mathei had an order from the commander of Flossenburg by the name of Koegel to bring regards to one of Koegel's friends in Puessen. When Mathei went there to the fellow's home he found out from that man, by the name of Edlinger, that Edlinger says he will see that my wife and I come to the concentration camp as soon as possible. Mathei took that knowledge and brought it to me as a warning. I appreciated that warning very much because I had been followed by the Gestapo several times already through my activities with prisoners of war, Americans and French, and I never knew who was the denouncer, and I appreciated that fact because I knew them for whom I had to watch. Mathei paid the visit to me and he asked me one of the first things how I can help him to get to Switzerland. He said that he is sick and tired and finished. He looked like a nervous wreck, all broken down. I explained to him I will help him as much as I can but it will take a few days at least until I am able to get connections with all the guards. Mathei said that he could not wait because he only has a few days stay allowed and he will have to do something else. He told me he will inject kerosene oil in his feet so he gets blood poison and if he loses his leg he doesn't mind but he says that he will never go back to Flossenburg or the frontier and that he has been a political prisoner for eight years now and they expect him to defend this very government which kept him as a prisoner for eight years, to defend it now with a gun in his hand. He said he will never do it. He said he will do anything and I should tell him what to do and I told him since we haven't time you might as well do that, and the following day or the next day, I can't, I don't remember exactly, it was the second or the first day after, he came to me again and says "I have done it, I injected kerosene oil". We went to a nearby inn in Austria, a friend of mine and him, and had a few bottles of wine there and he got such terrible pains we had to break up and leave. We

hardly had a chance to get him home & any more because his pain was so terrible he could not stand on his feet any more. He had to go to the hospital the very same night and the doctor there, which must have known that it was a self-inflicted infection, kept him there for I think about nearly two months. Several telegrams came---such as I get the information---from Flossenburg, which asked the doctor if it was not possible to transfer him from Pussnen to Flossenburg back. The doctor done his utmost to keep Mathei as long as possible as the doctor himself was at that time already a very anti-Nazi feeling man. Mathei was brought back to Flossenburg from the hospital by the SS. Before Mathei left he told me if he has to enter the Bewachungs Battalion he will shoot his way through because he will never fire against an Allied soldier. When Mathei got back---went to Flossenburg, he had to go to the front and run over and he came back to Pussnen after he was released as PW. He went to my house the first or second day again and told me he succeeded in running over, he had to kill a lieutenant and a sergeant because if he didn't do that they would have shot him as they found out that he had an idea to run away.

Q Did you ever learn the nationality of the sergeant and lieutenant that Mathei was supposed to have shot?

A Germans. SS men.

Q Did you ever know an SS lieutenant-colonel by the name of Koegel?

A Yes, sir.

Q Will you explain to the court the nature of your acquaintance with SS Lt. Col. Koegel.

A I was visiting one of our home town inns when a man was sitting on the table. One of my friends accused me of doing too much dealings and having too much connections with prisoners of war, that I was risking my neck too often, and Koegel picked up that

conversation, Koegel pounced on me and said "What are you doing?" and I said "I am doing nothing excepting being human to these boys". Koegel says they're going to be the first ones to cut your throat. I said "Mr. Koegel, not me, I don't expect that" and that's all I ever heard or had any connections with Koegel.

Q Do you know whether Lt. Col. Koegel's home was in Fuessen?

A It used to be before I came to Fuessen.

Q Do you know of Koegel's general reputation in Fuessen before you arrived?

A Yes, sir. I heard of it and it was a very bad reputation that he had there, very bad, characteristically the worst one I can think of a man.

Q Will you explain that reputation to the court.

PROSECUTION: I object to that, may it please the court, as being improper. He has a right to say that a man's reputation is good or bad but if we want to go into details that is a matter of cross-examination and not direct examination.

MR. M'KAY: May it please the court, one of the contentions of the prosecution in this entire trial is that Karl Mathei engaged in a common design with the administration of Camp Flossenburg, which was headed by Koegel, in which his intention was to kill, torture and beat prisoners of war, and I am trying to show this court the background of Koegel to show that it would be impossible for Mr. Mathei to ever get acquainted with this man Koegel as a personal friend and ever have any connections with him.

PROSECUTION: May it please the court, that would be immaterial and irrelevant, whether Mathei was a friend of Koegel or not.

DR. ENGELHORN: I believe it is in the interests of all accused to hear some more details about this man Koegel who was the camp commandant. Nothing has been said about him so far and this man knew him personally and therefore it would be in the interests

of the accused to hear more details about this man.

PRESIDENT: The objection of the prosecution is overruled.

MR. M'KAY: Will you read the original question, Mr. Reporter?

(Whereupon the question was read by the reporter as follows: "Q Will you explain that reputation to the court.")

A Koegel had a bad name for making false bankruptcy; that's the first thing: false bankruptcy, he made a false bankruptcy; they accused him of making wrong oaths, false oaths before the court. He was leading a wild life with women and with the necessary money he needed there he done all kinds of swindlings in and around Fuessen. He disappeared from Fuessen, I think it was in '32,and went to Garmisch and did the same thing over there. I personally didn't see him until '43, I didn't know him before, but I heard so much about his bad reputation over there and everybody was afraid to talk any more on account of his SS rank which he held in these later years. It would have been impossible for a man like Mathei to be called a friend of Koegel because Koegel—

PROSECUTION: I object to that, may it please the court, and I move that this be stricken on the ground that it calls for a conclusion of this witness and invades the province of this court.

PRESIDENT: The motion is sustained.

QUESTIONS BY MR. M'KAY:

Q Do you know whether at any time in Fuessen, prior to Koegel becoming commandant of Flossenburg, that he was ever a friend of Karl Mathei?

A No, sir. No. There was such a great difference between the two of them. Mathei was a simple laborer; he worked hard; and Koegel was an easy-going gentleman as he wanted to call himself at that time, he wanted to take life easy with less work and not bother with work.

Q Do you think that you could recognize Karl Mathei if you saw him again?

A Yes.

Q Will you look the other way a minute.

Will you look at the men sitting in the dock behind me and see if you recognize the man you knew as Karl Mathei.

A Yes.

Q Will you point him out to me.

A In the third row, the man with a black sweater on, #25.

MR. M'KAY: Let the record show that the witness has identified the accused wearing #25 as Karl Mathei. You may cross-examine.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Were you ever in Flossenburg at any time between January 1, 1942 and April, 1945?

A No, sir.

Q So is it a fact that you do not know anything of the relationship that existed between Karl Mathei and Koegel while Mathei was incarcerated in Flossenburg during these years?

A Yes, sir, I do.

Q The only thing you know is based upon ~~knock~~ the matters that Karl Mathei told you, is that not true?

A Yes, sir.

Q No further questions.

PRESIDENT: Redirect examination.

MR. M'KAY: Nothing further, sir.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Mr. Seehner, when you went to the States what pursuits did you follow there?

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A I worked at my trade. In the beginning I worked on a farm which the Canadian Government asked me to work for a year. The farmer released me when a friend succeeded me and I worked in a bakery after that and I came to the States on the 7th of February, 1926, working in Kansas City, 1108 Walnut Street in Heiferman's Good Things to Eat, a big delicatessen store. From there I went to Denver, Colorado. In Denver I got a job in Canon City, Col. I worked for the Purity Bakery Co. in Canon City. The proprietor's name was C. W. Carlson. From there I traveled to the west, I went to Salt Lake City, and I went down south and then I came back and I worked for the Santa Fe R. R. station in St. Louis, as cook's baker I worked there in the railroad station.

Q Then the court understands that you followed the bakery trade and restaurant trade, is that the idea?

A No, sir, not exactly. I had an accident in 1929 when I came to New Jersey. I got married in New Jersey and just before that I had an accident, my left foot was broken. I had to change my trade and I had to attend a watchmaking and jewelry school in New York City and from there I got a job in Samuel Maynard Co., 28 Wall Street. I worked there as a confidential man, I had to do very confidential work. I had to keep the exact time of the New York Stock Exchange for 3 and a half years and of the home and offices of Mr. J. P. Morgan and Sons. I worked until the last day until I was leaving for Germany.

PRESIDENT: Any further questions on the part of any members of the court? Apparently not. Redirect?

MR. MYERS: Nothing further.

PRESIDENT: Has the prosecution anything further?

PROSECUTION: No further questions, sir.

PRESIDENT: The court understands that the defense is finished with this particular witness

MR. MYERS: That is correct, sir.

PRESIDENT: That will be all. Thank you.

MR. M'KAY: I would like to ask the permission of the court to allow Mr. Seehner to remain in the court room until he is ready to go back to Nuernburg.

PROSECUTION: We have no objection, sir.

PRESIDENT: That request will be granted.

(whereupon the witness was excused but remained in the court room)

MR. M'KAY: Call Eduard Liebel. The next witness is being called on behalf of the accused #21.

EDUARD LIEBEL, called as a witness by the defense, being duly sworn testified as follows through an interpreter:

DIRECT EXAMINATION.

QUESTIONS BY MR. M'KAY:

Q Will you state your name to the court.

A Eduard Liebel.

Q Will you give us the spelling of your last name?

A Liebel, L-i-e-b-e-l.

PRESIDENT: The court didn't get that first name. Is it Erhard or Edward?

QUESTIONS BY MR. M'KAY:

Q What is your forename?

A Eduard, E-d-u-a-r-d.

Q Liebel, where are you at present residing?

A At the present time I am in the special camp at Dachau.

Q Are you now being held by the American authorities?

A I am accused of having been a capo and beating prisoners.

Q Where?

A I was arrested in Schwanderf.

Q Where are your alleged connections supposed to have been where you beat these people?

A In Flossenburg.

MR. M'KAY: If it please the court, at this time I would like to request the court to advise this witness of his rights. I have done so before but advise him of his rights again.

PRESIDENT: The court at this time cautions the witness that if he should be asked any questions which might tend to incriminate him that he has a right to ask the court to refrain from answering same. Do you fully understand?

THE WITNESS: Yes, sir.

PRESIDENT: Proceed.

QUESTIONS BY MR. M'KAY:

Q Mr. Liebel, were you ever a prisoner in Flossenburg Concentration Camp?

A From April 5, 1940 until the end; from the 5th of April 1940 until the 17th of April, 1945.

Q During the years 1942 on what detail were you assigned to work on?

A I was in the stone quarry, quarry #1.

Q Who was the capo in quarry #1 while you were there?

A At first a certain capo by the name of Rechel and later on in 1943 Jakubith took over the quarry.

Q Can you tell the court Jakubith's nickname while he was capo in the quarry following 1943?

A He was generally addressed as "Pipl", "shorty."

Q How long did you actually work on this detail under Jakubith?

A One year, until '44.

Q During the time that you worked on Jakubith's detail will you explain the nature of the work that was carried on by the prisoners there.

A There were different jobs; there was a driller and a waste man.

Q Can you give the court any idea of the number of men that

worked on Jakubith's detail at the time you did?

A I can't remember exactly but the number always varied between two and three hundred.

Q During the time that you worked under Jakubith did you have the opportunity to observe how he treated the prisoners who worked on his detail?

A Yes, I can be explicit about that.

Q Will you just explain how Jakubith treated the prisoners that worked on that detail. Just explain it to the court.

A Under the circumstances, with so many people working in one place, so many in one place of work, and people running away from their place of work and running all over the place, Jakubith was traveling all day long trying to get his people together.

Q Will you explain how he treated the individual prisoners that worked on his detail?

A People who were orderly and submitted themselves to the orders given were treated accordingly.

Will you explain to the court how he treated people that did not comply with the orders.

A There I have to explain to the court that whenever people did not comply with the orders he had to call them on it and off and on would give them a beating.

Q Will you explain these beatings that he gave.

A He mostly did it with his bare hand. I never saw him use any instruments such as a handle or anything else.

Q During the time that you worked in the stone quarry were there any SS personnel around?

A Yes, the detail leaders always inspected.

Q Were there any guards in the quarry at the time you worked there?

A The guards were on their towers but the detail leaders came through there.

Q Will you explain to the court the physical set-up of uarry #1 at the time you worked there. Describe the terrain that was around this quarry when you worked there.

A I worked down below in quarry 1 and was surrounded on three sides by rocks.

Q Will you explain to the court how the rock was removed so that it could be worked in the quarry?

A When I got there there was already space down below to work and more rock was blown off or detonated and fell down and was worked on down below.

Q Will you explain what the prisoners did at the time the rock was detonated.

A When a rock was detonated the people had to throw the waste down from the upper part and had to break loose the rock with crowbars so it would fall down.

PRESIDENT: The court will take a half an hour recess.

(whereupon at 1000 hours the court recessed)

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(whereupon at 1040 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Maj. Oeding who is absent on business of the accused; all the accused are present with the exception of Maddensieg, Oswalt, Olschewski and Pinter who are confined in the hospital and whose interests are being taken care of by their counsel.

The witness is reminded that he is still under oath.

EDUARD LIEBEL, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

(discussion off the record)

PRESIDENT: The former witness of Mathei is notified that the court grants him permission to remain in the court room. Proceed.

DIRECT EXAMINATION: (continued)

QUESTIONS BY MR. M'KAY:

Q Mr. Liebel, during the time that you worked on Jakubith's detail did you ever observe any of the prisoners working with you who were sick?

A Yes, I saw a sick prisoner.

Q Will you explain to the court how Jakubith treated that prisoner.

A In the winter time, as far as it was possible, Jakubith always brought a sick prisoner in a dry place into a hangar or a shed.

Q Did you see anything else in regard to Jakubith's treatment of sick prisoners?

A Yes, when there was enough food available he always saw to it that this one or that one got a little bit extra.

Q What were the nationalities of the prisoners who worked along with you on Jakubith's detail?

A There were the Polish ones, a Frenchman, and several Belgians; I don't know them all exactly.

Q During the time that you worked on the detail with these prisoners, did you observe whether Jakubith's treatment of prisoners was any different towards foreigners than towards you?

A No. I didn't get any more food than anyone else did.

Q Will you tell the court how many Germans there were working on that detail at the time you were working there?

A I can't say that any more.

Q During the time that you worked on Jakubith's detail did you observe any accidents occurring?

A No. I can't remember any.

Q During the time that you worked in the quarry under Jakubith did you ever get any rations other than what was actually issued to you?

A At the most in the morning when we got our bread for breakfast. I don't know of anything else.

Q During the time that you worked in the stone quarry did you ever get anything like cigarettes or jam or anything while you were there?

A No. I can remember getting a few cigarettes once in a while but I don't remember any jam.

Q Where did you get the cigarettes?

A Usually the master of the quarry issued them.

Q Did you ever know a man working on a detail in the quarry by the name of Radecki?

A What was his name?

Q Radecki.

A I can't remember him according to that name.

Q During the time that you worked under Jakubith in the stone quarry, do you know of his turning in any report on any of the prisoners?

A Whether he made reports against prisoners?

Q Yes.

A I don't know that.

Q You think that you could recognize Jakubith if you saw him again?

A Yes.

Q Will you look over the men who are seated behind me in the dock and see whether you can recognize the man you know as Jakubith?

A I already have; I know.

Q Will you point him out to me?

A (Witness indicates.)

Q Let the record show that the witness has identified the accused wearing No. 21 as Jakubith.

MR. McKAY: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION

Q What block did you live in?

A In the beginning I was quartered in Block 7.

Q Did you ever live in the same block with Jakubith?

A No.

Q Did you ever work in Messerschmidt 2004?

A Yes.

Q Division 8?

A No. T-2 is where I worked.

Q How frequently did you see Jakubith while you were working on that detail?

A Jakubith was not in this division at all.

Q When you worked in the quarry from 1943--

DEFENSE COUNSEL (Mr. McKay): Just a minute, there is some question of interpreting. Will you check the detail that he worked on?

INTERPRETER: C-2, instead of T-2, C-2 in the Messerschmidt factory.

Q During the period of 1943 until 1944 I believe you stated you worked under Jakubith; is that correct?

A Yes. That was in the quarry. That was in the quarry.

Q And that had nothing to do with the Messerschmidt work, is that correct?

A No. It was a separate unit. It was a separate quarry and Messerschmidt hall. This was in the quarry.

Q And how frequently did you see Jakubith during the time that you worked on that detail?

A Where I last worked?

Q During the period 1943 and 1944?

A 1944 I was with him every day. I worked with him.

Q And what type of work did you perform in the quarry?

A I was a stone borer in the quarry.

Q And what were your duties as a stone borer?

A The civilian director would assign me a stone and I had to bore it according to the prescribed measurements.

Q Did Jakubith supervise your work?

A Actually the work was under the supervision of the master; the civilian quarry master.

Q So that you did not come in contact with Jakubith at all; is that correct?

A Yes, I did; as a prisoner I was under him.

Q Well, what supervisory duties did he perform in connection with your work?

A He had to make sure that I was at my work and that I did my work.

Q Now you stated, did you not, that Jakubith chased prisoners all over the place. Is that correct?

A Chased them around?

Q Yes.

A Yes. He had to run around the quarry looking for his people; they were scattered all over the quarry. He had to do

the force he used in striking these prisoners?

A He didn't use much force.

Q Did you ever see him knock a prisoner down?

A No.

Q Did you ever see any prisoners carried out of the quarry from Jakubith's detail?

A They did carry people out of the quarry, but not people of his. Not people that he hurt. They were people who fell down because they were weak.

Q And of the two to three hundred prisoners that Jakubith had none of them ever fell down because they were weak? Is that correct?

MR. McKAY: I object, because of its argumentative form. The prosecutor is strictly trying to argue the fact that the witness has stated.

PRESIDENT: Objection over ruled. Proceed.

A It is self-understood that people fell down because they were weak in the quarry. They came back from the camp and they would be weak enough to be carried, some times.

Q And those people were carried from Jakubith's detail? Is that not true?

A Yes.

Q Now were you in position where you could observe all of the 200 or 300 prisoners that worked on Jakubith's detail?

A No.

Q So that what you have testified to concerning Jakubith's treatment of prisoners is what you yourself have seen? Is that correct?

A That is right.

Q And nothing more; is that correct?

A No. I had to stick to my work; I had to do my own task and visibility in the quarry was not very good and you couldn't see everything.

(Liebel - cross)

that all day long.

Q Is it a fact that Jakubith carried a rubber hose around with him?

A I never saw that.

Q Is it a fact that Jakubith carried a wooden stick around with him?

A I never saw that either.

Q You saw him every day, did you not?

A Yes. Every day. I saw him every day as he went around the quarry.

Q Now how badly did Jakubith beat these prisoners?

A What I usually saw consisted of his merely striking them with his hands.

Q And describe the manner in which he did that, to the court, please.

A The wayI saw it he would give a few blows with his left hand on the man's ear.

Q Did he do it with his open hand or with his fist?

A Usually he had his hand open. Whether he struck with his fist or not I can't say.

Q Demonstrate to the court the manner in which he did it, please?

A When he saw the man he would give him a box on the ear with his left hand or with his right hand. On the left and on the right. May I mention something at this point?

Just answer my questions, please, and demonstrate to the court as best you can the manner in which he would deliver these blows to the ear?

A With his open hand he struck, like this and like this.

Q And he didn't strike any harder than that either, did he?

A I can only testify about what I saw. You understand.

Q That is what I am asking you, what you saw. Is that all

the force he used in striking these prisoners?

A He didn't use much force.

Q Did you ever see him knock a prisoner down?

A No.

Q Did you ever see any prisoners carried out of the quarry from Jakubith's detail?

A They did carry people out of the quarry, but not people of his. Not people that he hurt. They were people who fell down because they were weak.

Q And of the two to three hundred prisoners that Jakubith had none of them ever fell down because they were weak? Is that correct?

MR. McKAY: I object, because of its argumentative form. The prosecutor is strictly trying to argue the fact that the witness has stated.

PRESIDENT: Objection over ruled. Proceed.

A It is self-understood that people fell down because they were weak in the quarry. They came back from the camp and they would be weak enough to be carried, some times.

Q And these people were carried from Jakubith's detail? Is that not true?

A Yes.

Q Now were you in position where you could observe all of the 200 or 300 prisoners that worked on Jakubith's detail?

A No.

Q So that what you have testified to concerning Jakubith's treatment of prisoners is what you yourself have seen? Is that correct?

A That is right.

Q And nothing more; is that correct?

A No. I had to stick to my work; I had to do my own task and visibility in the quarry was not very good and you couldn't see everything.

(Liebel - cross)

Q Were you working on that detail in February 1944?

A Yes, I was still in the quarries then.

Q Working on Jakubith's detail?

A Yes; February 1944 I was working in his work detail.

Q At that time did you see Jakubith beat a Russian so severely with the pick handle that he was knocked unconscious and carried away in the evening?

A I didn't see that.

Q Did you hear about it?

A No. In the beginning of February I had to leave his work detail and go to the hospital because of dysentery. Diarrhea.

Q Were you working on that detail in August 1944?

A Not in August.

Q In what month in 1944 did you leave that detail?

A In the middle of February, or at least in the course of February, I went away and I was laying in the hospital until May. The beginning of May.

Q When did you join that detail in 1943?

A I was in the quarry from 1940 until February 1944.

Q Will you please answer my question as to what month in the year 1943 you joined Jakubith's detail?

MR. McKAY: That was clearly an improper question and it is arguing. He stated that he was in the quarry from 1940 and not from 1943. I think if you will look at the records, this witness stated that Jakubith didn't come to be cape until 1943.

PROSECUTION: Would you read the question?

(Whereupon the question was read by the reporter.)

(The last two questions and answer were then read.)

MR. McKAY: They are trying to argue the facts this witness has shown.

PRESIDENT: Objection ever ruled; proceed.

A Jakubith took over the stone quarry in the summer or in the fall, I don't know exactly. The quarry would go from the hands of one capo into the hands of another.

Q So that it was either some time in the summer or the fall of 1943 that you were working under Jakubith; is that correct?

A 1943; that is right.

Q And you continued to work on that detail up until February 1944, at which time you went to the hospital; is that correct?

A That is right.

Q And after you got out of the hospital did you ever rejoin Jakubith's detail in 1944?

A Yes. For a short time.

Q And during what month of 1944 did you rejoin Jakubith's detail?

A It was only two days in May.

A And after these two days in May did you go to another detail?

A Yes. After that I did, because I couldn't stand the work in the quarry any more; if I had to work, well, I was so sick and exhausted.

Q Did you ever after the two or three days in May that you have mentioned rejoin Jakubith's detail?

A No, I went to the Messerschmidt factory. I asked the chief capoWidmann if I couldn't work there because I was so sick and that I thought I could stand the work there.

Q So that you were only on Jakubith's detail from some time in the summer of fall until February 1944 with the exception of two or three days in May; is that correct?

A Yes.

Q Now after you left Jakubith's detail did you thereafter see Jakubith?

A No.

Q Were you and Jakubith good friends?

A What do you mean by being good friends? As long as I

worked in the quarry I did the work assigned to me just like any-other prisoner.

Q Did you ever share your packages with Jakubith?

A No.

Q Did he ever share his packages with you?

A No.

Q What color triangle did you wear?

A I had a red triangle, with a yellow stripe on it.

Q What is the significance of that triangle?

DEFENSE COUNSEL (Mr. McKay) Just a moment, I object to that because it is an attempt to submit this witness to indecencies.

PROSECUTION: I think, may it please the court, I have a right to show what triangle he were. And I don't believe the court has received any evidence as to what it meant and I think it would be enlightening to the court to know what that triangle stood for.

DEFENSE COUNSEL (Mr. McKay): The court will recall in the early part of this case all of the triangles were explained.

PROSECUTION: I will ask, may it please the court, if it was ever explained I have forgotten it, and if counsel wished to enlighten the court on it, as to what it is now, I won't ask the witness. But I think I am entitled to have that testimony from this witness.

PRESIDENT: Objection of Defense Counsel is over ruled.

Q Please answer the question.

A I would like to beg the court to excuse me. It is very embarrassing for me to talk about this triangle.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DEFENSE COUNSEL (MR. McKay): Did the court make any ruling on the witness' request?

PRESIDENT: The court appreciates the fact that the Prosecution has not pushed the matter; the question has not been answered. The court will not insist upon it unless the matter is brought up again.

(Kabel - cross)

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Mr. McKay)

Q During the examination by the Prosecutor, when he was asking you about whether Jakubith carried a gummie and a club, you stated you wanted to mention something.

A I wanted to say that when I was in the quarry and was doing my work there, I was busy and I couldn't see the whole quarry. I couldn't see all that was going on in there.

DEFENSE COUNSEL (Mr. McKay): That is all, if the court please.

PRESIDENT: Recross?

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have testified that you left Flossenburg on the 17th of April, 1945. Where did you go after that?

A After that we were supposed to come to Dachau with this transport.

Q Well, what became of that transport? Did you ever reach Dachau?

A No.

Q What became of the transport?

A We came as far as Schwanndorf.

Q Then what happened?

A We were liberated at noon on the 23nd by the Americans in Schwanndorf.

DEFENSE COUNSEL (Mr. McKay): If the court please, let the record show that the accused Pinter has returned to the courtroom.

Q When did you arrived at Dachau, after you were liberated?

A We were liberated in Schwanndorf. Directly in Schwanndorf.

Q The court wants to know when you were interned in Dachau?

A I came here on the 14th of September, last year. That is 1945.

Q What was the occasion of your coming to Dachau?

A I was in Schwanndorf and I made my quarters there and from the American army I got all the things I needed, good food and so on, because I had been a prisoners. I stayed there until the 21st. I was in Schwanndorf until the 21st of July.

Q 1945?

A Yes.

Q Then were you arrested.

A Yes.

Q By whom?

A Man from Buchenwald who had been in Flossenburg for a short time went to the American commanding officer and said that I had been a capo in Flossenburg and that I had beat prisoners there.

Q Are you under charges at the present time?

A Yes.

Q What the court wants to know is, have you ever been presented with actual charges?

A No, I don't know anything about that at all.

Q The court understand you were a capo at Flossenburg?

A No, I wasn't anything at all in Flossenburg. It was only because I had it better in Schwanndorf with the Americans than he had it. That was the reason he denounced me.

Q But you were never a capo in Flossenburg?

A As long as I was in Flossenburg I never held any position whatsoever.

Q The court wants you to step down from the witness chair and demonstrate to the court just how Jakubith beat prisoners.

A He would come up to a prisoner and hit him from the left and from the right side across his ear. I can't tell you any more.

Q Did he use any more force than you have demonstrated there?

A No. All the force that I saw was not great.

(Liebel - Court)

PRESIDENT: All right. Resume your seat. For the purpose of the record the witness has indicated by a demonstration that Jakubith used both hands in slapping prisoners. How many times did you see that.

A I saw it so many times I cannot remember all the times.

PRESIDENT: Well, what do you mean by that. Five times, ten times, one hundred times or what.

A It is hard to say exactly. I saw it perhaps six or seven times and I have to mention that there were cases of theft in which the perpetrators never went back to their work in the course of a day and ran around inside the quarry.

PRESIDENT: Were you ever slapped by Jakubith ?

A Yes. He slapped me once also.

PRESIDENT: How much force did he use that time ?

A He didn't use so much force against me.

PRESIDENT: Did he knock you over ?

A No, I was strong enough. He couldn't knock me over.

PRESIDENT: Any question by other members of the court. Apparen tly not. Redirect ?

MR. MCKAY: Nothing further Sir.

PRESIDENT: Cross examination ?

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q May it please the court there is one question. You testified on your examination by the court that you did not hold any position at any time in Flossenberg. Is it not true that you were a member of the camp police ?

A Yes, we were all members of the police.

Q Whom ?

A I mean all the Germans in the last few days. If we did not join up we would have had it rough.

(Liebel - court)

Q Isn't it also a fact that you were also a guard on the evacuation transport?

A Yes, we were there. We accompanied the transport but that wasn't anything.

Q You were kept a guard were you not?

A Yes, we ran alongside the transport.

Q You were a uniform did you not?

A A uniform! By a uniform what do you mean?

PROSECUTION: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Did all the German prisoners that were in Flossenberg join the camp police?

A Yes, most all they seemed to be all there. Nobody joined voluntarily.

MR. McKAY: That is all.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Why were you sent to Flossenburg in the first place?

A I was arrested on the 9 November 1939 in Karlsruhe by the Gestapo.

Q Why were you arrested?

A The certificate of arrest said that I was being arrested because of an attitude opposing the State and because I had joined Catholic Organizations.

Q Were you ever brought to trial?

A No, the Gestapo acted any way it wanted to acg.

Q Were you never brought to a court before your confinement. Is that correct?

A No. I was unddr investigation in Karlsruhe for eight weeks. Every day I was beaten.

PRESIDENT: Any further questions by members of the court. Apparently not.

(Liebel - court)

MR. MCKAY: Nothing further Sir.

PROSECUTION: No further questions.

PRESIDENT: Do I understand that the Defense has finished with this witness?

MR. MCKAY: Yes.

PRESIDENT: The witness will be excused.whereupon the witness was excused and withdrew from the court room.

MR. MCKAY: The next witness is being called on behalf of the accused No. 26. Call Josef Bergmueller.

JOSEF BERGMUELLER, called as a witness by the defense being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name to the court.

A Bergmueller, Josef.

Q Where are you residing at the present time ?

A Grosskoets.

Q At the present time are you living in your home ?

A Yes, but I am in the camp.

Q What camp are you in ?

A Camp I.

Q Is that camp located here in Dachau ?

A Yes.

Q Are you being held here by the American authorities ?

A Yes.

MR. MCKAY: May it please the court due to the fact that this witness is being held by the American authorities in one of the camps here I have previously advised him of his rights to request the court to advise him of his rights again.

PRESIDENT: The Court advises you that if any questions should be asked that you feel might tend to incriminate you, you have the right to ask the court to refrain from answering.

A I understand.

PRESIDENT: You fully understand ?

A Yes, Sir.

PRESIDENT: Proceed.

MR. MCKAY: Mr. Bergmueller were you ever in the concentration camp at Flossenberg ?

A Yes.

Q What was your position in Flossenberg concentration camp.

A I was a cook in the kitchen.

Q And when did you come to Flossenberg as cook?

A 3 September 1940.

Q How long did you remain in Flossenberg ?

A Until April 1945.

Q As cook in the kitchen in Flossenberg, did you ever have anything to do with the prisoners' kitchen ?

A Yes.

Q What was your connection with the prisoners' kitchen in Flossenberg.

A I was in there as cook.

Q And when did you become a cook in the prisoners' kitchen at Flossenberg ?

A In December 1943.

Q And how long did you remain in the prisoners' kitchen as a cook ?

A From December 1943 until April 1945.

Q During the time that you were a cook in the prisoners' kitchen in Flossenberg did you ever become acquainted with a man by the name of Matuka ?

A Yes.

Q Will you explain to the court the nature of your acquaintance with Matuka in the prisoners' kitchen ?

A Matzke was ordered to the kitchen by the camp leader. He was working as a butcher in the prisoners' kitchen.

Q Will you describe briefly the duties that Matzke performed as a butcher in the prisoners' kitchen.

A He had to cut sausage, he had to clean up the meat pots.

Q Can you give the court any idea of the time when Matzke came to the prisoners' kitchen in Flossenberg to work ?

A That has been two years and I cannot give you any exact date but as far as my memory serves me he was in this prisoners' kitchen in February 1945.

Q To the best of your recollection do you know whether he was there prior to February 1945 ?

A The lawyer gave me permission to talk to Matzke and I asked him whether he knew about an inciden t which took place in the kitchen in christmas time 1944 and Matzke told me with simple clarity all that happened there in the kitchen at christmas. We had a small christmas celebration there with the prisoners in the kitchen.

Q And who is the lawyer who gave you permission to talk to Matzke ?

A In his presence I was asking him whether he knew anything about this christmas.

Q Who was the lawyer that did that ?

A The Defense Counsel.

Q Was I the man ?

A Yes.

Q During the time that you knew Matzke in the kitchen in Flossenberg did you have an opportunity to observe how he treated the prisoners ?

A Yes.

Q And will you describe to the court just what you saw from your observations in regard to Matzke's treatment of prisoners in Flossenberg ?

(Bergmueller - direct)

A Matzke was a very quiet man. I never saw him get excited or start a quarrel. He did his work as the work was asked of him and it never occurred to my attention that he was excitable. He was a very quiet man.

Q Did Matzke hold any kind of position in the kitchen while he was there ?

A. No. He was a worker at the butchers' table there.

Q Do you know whether the personnel that worked in the kitchen lived in the camp during the time that you were cook in the prisoners' kitchen ?

A In the beginning they were quartered in blobk I, later on a new block was built in which they lived. A kitchen was included in this block.

Q Do you recall just where this new block was located with regard to the kitchen itself ?

A It was right behind the kitchen, adjoining the kitchen.

Q I call your attention to a plan which has been marked prosecution exhibit 5. I ask you to come over and look at it and see if you can recognize what this is a plan of.

A That represents the camp of Flossenberg.

Q Now will you indicate on that plan if you can the block where the kitchen itself was located.

A Here (indicating)

MR. MCKAY: Let the record show that the witness has indicated a block on P.5 which bears the figure 5 in black with the word kitchen written in red.

Q Now will you indicate where the new block was where the kitchen personnel was quartered.

A Right behind it.

MR. MCKAY: Let the record show that the witness has indicated a block directly above the block heretofore indicated, the second block carrying the figure 12 in red. Will you now return to the witness chair.

PRESIDENT: Now it will be necessary for the prisoners to refrain from talking among themselves. The Court will permit the passing of notes over to the respective Defense Counsel but the prisoners must refrain from conversations among themselves during the course of the actual open court sessions. Proceed.

Q Can you give the court any idea of the shifts that were working in the prisoners' kitchen at the time that you were cook there ?

A Yes.

Q Will you explain that to the court.

A We had two shifts; one went to work early in the morning 3 o'clock or three-thirty according to what the work was and stayed at work until 12 noon. The second shift began at six in the morning and stayed at work until six at night.

Q Now will you explain to the court whether the same prisoners remained on the same shift all the time or whether the prisoners were rotated from shift to shift.

A They were rotated on the shifts, yes.

Q During the time that you knew Matzke was he rotated from shift to shift ?

A Yes. May I make a remark ?

Q Yes.

A Usually the butchers had the morning shift, the early shift, and once in a while perhaps every four days they were rotated as the butchers would work in shift from six in the morning until six at night.

Q Did you observe Matzke's physical condition during the time that he worked in the kitchen with you ?

A Yes.

Q Will you explain Matzke's physical condition during the time that he worked with you in the kitchen ?

A When he first came into the kitchen he looked somewhat sickly and I was told that he had just come from the hospital.

Q Who told you that?

A I don't know any more to-day exactly.

Q And did this physical condition continue to exist during the entire period that Matzke worked with you in the prisoners' kitchen ?

A Yes. He picked up some weight and got stronger.

Q How long did Matzke remain in the kitchen with you ?

A I cannot give you the exact time any more. Perhaps six to ten weeks approximately.

Q Do you know what became of him when he left the kitchen ?

A When Matzke came into the kitchen he looked sickly. He had rheumatism and I said "it is no use trying, you cannot work. Go back to the hospital".

Q What was the result of that conversation ?

A Matzke came back from the hospital into the kitchen and said that the doctor told him that he would not be allowed to work in the kitchen any more.

Q When you worked in the kitchen as SS man what was your rank ?

A Sergeant Corporal and then Sergeant.

Q And as such did you have charge of the kitchen itself ?

A Yes. The actual director of the kitchen was First Sergeant Hensel but I was responsible to him.

Q Do you think that you could recognize Matzke if you saw him again?

A Yes.

Q Will you look over the prisoners who are sitting in the dock behind me and see if you can recognise the man you know as Matzke ?

A Here (indicating)

Q Point him out.

A The second man, that is Matzke, yes. (indicating)

PRESIDENT: Will you speak louder.

A Yes.

MR. MCKAY: Let the record show that the witness has indentified the accused wearing No. 21 as the accused Matzke.

(Bergmueller - direct)

Q This is the man that worked with you in the kitchen?

A Yes.

MR. McKAY: You may cross-examine.

DR. ENGELHORN: I would like to ask several questions.

PRESIDENT: All right, go ahead.

DR. ENGELHORN: I would like to ask several questions for the accused Geisberger.

QUESTIONS BY DR. ENGELHORN:

Q Did you learn to know a man called Geisberger in Flossenburg?

A Yes.

Q During what period of time did you learn to know him?

A It was towards the end, perhaps March, February or March, 1945.

Q What position did Geisberger have in the camp?

A Geisberger was a report leader at the end.

Q Can you tell us briefly what duties the report leader had to take care of?

A The prisoners' detail in the kitchen was under the control of the report leader and he had to be responsible for it and so it was that once in a while he came into the prisoners' kitchen where I learned to know him.

Q How often did he come into the prisoners' kitchen?

A If he did not have any official work to do he would perhaps come into the kitchen once a week.

Q Please tell the court how Geisberger treated the prisoners.

A I never saw him give anyone trouble, neither me nor the prisoners there.

Q What kind of reputation did he have among the prisoners there?

A He had a good reputation among my men. He had a special favour come to us in this regard. The kitchen personnal had to go to roll call, had to stand up in line and they counted off, and a report was made either by the block leader or his representative and when Geisberger came this was changed. This custom was done away with. It

was never for me or my representative in the kitchen to take a note to the roll call telling how many people were in the kitchen and their prisoners and the prisoners did not have to go to the roll call any more.

Q Can you tell us anything about whether or not transports arrived from the outside of the camp during the time when you were working in the kitchen.

A Yes, transports arrived at that time.

Q How were these transports treated?

A I did not have anything to do with the transports. I only know that food was immediately asked for of the people.

PRESIDENT: Speak louder, that's right.

A I remember one case when I was called out at 9 o'clock in the evening in order to prepare warm food for members of a transport, if I am not mistaken, they were women.

Q What time of the night was that?

A I do not know exactly when the warm food was given out. It was round midnight or one o'clock in the morning.

DR. ENGELHORN: No further questions.

DR. WACKER: I would like to ask questions in regard to the general conditions of the camp for the people whom I represent.

QUESTIONS BY DR. WACKER:

Q How much food was prepared in the kitchen for how many people?

A The strength report was sent to the kitchen and the corresponding amount of food was cooked all according to how many people were there, eight to ten thousand people.

Q How much food was prepared, was taken into account, for each individual prisoner in the kitchen?

A I do not know the portions, the individual portions any more exactly. The portions were prescribed officially by the nourishment office. A directive was sent to us and we followed it.

Q Please describe a meal for any day you choose. Any day you can remember.

A I am now speaking about 1944, 1945.

Q Please try to pick a day. Let us say January or February 1945.

A Yes. In the morning coffee. 8.30 or 9 o'clock the heavy workers got their special ration and this food was delivered to their place of work. It consisted of 200 grams bread, 20 grams fat or 70 grams sausage. The fat and sausage would be rotated.

Q Do I understand you correctly that the only prisoners who got this ration were those who worked in the quarry or in the department 2004 ?

A Those who were put to that work. I don't know where they were working.

Q And the prisoners who stayed back in the camp did not get that ?

A There was ½ liter soup per person cooked and the hospital got that and the other prisoners who were not heavy workers.

Q Do I understand you correctly. Was the meal at 9 o'clock in the morning ?

A The early morning soup which went to the hospital went there at 9 o'clock.

(Whereupon the court at 12.00 hours adjourned until 13.30 hours - 13 September 1946)

433,9/13
1sp

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present. All the personnel of the defense are present with the exception of Major Deuing and Dr. Hall who are absent on business of the accused and Dr. Engelhorn is absent on business of the accused. All of the accused are present with the exception of Luddenbeck, Oswalt and Fisbusch who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Dr. Acker, continuation of direct examination.

JOSEF BERGMUELLER, called as a witness for the defense resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY DR. ACKER:

Q This morning you testified about a certain Geisberger. Would you be able to recognize him if you would see him again?

A Yes.

Please look at the accused in the dock and see if you can recognize Geisberger.

A The first one in the second bend (Indicating).

DR. ACKER: May the record indicate that the witness has identified Geisberger as No. 12.

Q This morning we were talking about the food

(Bergmueller - Direct)

2sp

situation. Now tell us what the people ate for breakfast.

A It would be clear if I would make a distinction between the food that an ordinary prisoner got -- that is, all the prisoners who didn't get special rations.

Q Please tell us the food which an average prisoner without special rations got. Let's pick a day in January 1945 as we mentioned this morning.

A In the morning he got coffee, at noon he got soup.

Q What time did he get coffee?

A 5:30.

Q Did he get any bread with that?

A No.

Q Just empty coffee?

A Yes.

Q And when was the next time he got something to eat?

A At noon.

Q What time?

A 11:30.

Q What did he get to eat then?

A One and one quarter liters of thick soup. It was calculated like this. There were kettles containing 50 liters and the kettles were not completely full in order to prevent any soup being spilled. Perhaps two or three liters would be missing and so as an average the kettles would contain on an average 48 liters.

Q And how many people got the food in these kettles?

3sp

A Forty people would get their rations from each kettle.

And on an average what did this food consist of?

A Vegetables, potatoes, flour, meat.

Q Was it about the same every day?

A That all depended what they could deliver and in the winters 1944-1945 it was of course very bad. Usually we just got ordinary turnips. It depended on what food the nourishment office could deliver.

Q Was there a shortage of potatoes in this winter -- I mean the winter '44-'45?

A I didn't understand the question.

Q Whether there was a shortage of potatoes in this winter '44 and '45.

A No.

Q What did you mean then when you were talking about ordinary turnips? Was that a substitute for vegetables?

A That was considered vegetables, yes.

Q When did the ordinary prisoner -- I mean the one who didn't get any special rations -- when did he get his next meal?

A That was dispensed from the kitchen around 4, 4:30.

Q And at these times on these occasions what did the prisoner get to eat?

A He got a quarter of a loaf of bread, and tea.

Q What do you mean a quarter of a loaf?

4sp

A I can't remember exactly what it was but if I am not mistaken in January '45 it was 300 grams bread, but it's possible it could be 350 grams of bread. I don't know exactly.

Q Did the prisoner get anything else beside this tea and this bread?

A He either got 50 grams sausage and 25 grams fat or else there was a hundred grams of jam.

Q Then is it true to say that every day in addition to this tea and bread the prisoner got something else either fat or sausage or jam?

A Yes, every day there was something in addition.

Q Was it up to the prisoner whether he wanted to save some of this bread for the next breakfast or not, or was he supposed to eat it all up? How was that regulated?

A I can't give you any exact information about that because I didn't have anything to do with the distribution of food in the blocks. I can't tell you exactly. As far as I know they could do what they wanted with the food, but I don't know it in any official way.

Q But this quarter of a bread was only given out once a day. Is that right?

A When the average normal food was given out, it was only given out once, yes.

Q Do you know how much bread the civilian population of Germany got during this same period of time?

Sep

A No, I have no idea because I never got outside.

Q Was this food which was prepared and given out of the kitchen prepared according to definite prescriptions?

A Yes, definite prescriptions.

Q Who ordered the food to be prepared in the kitchen, how much it would be and who was responsible for determining the food in the kitchen?

A As far as I know the certificates for food would be issued by the nourishment office in Berlin and the menus and the food we would get from the food department.

Q Can you tell us whether the food which was in Flossenburg was dependent upon food ration cards or whether the food was ordered directly from a nourishment office in Berlin or some other authority?

A As far as I know the nourishment office in Berlin issued the certificate allowing the food to be obtained and the food department in the camp would get the food on the strength of these certificates.

Q In 1945 did the food get considerably worse then it had been up to that time?

A Yes.

Q Was that the fault of the general war situation or what do you attribute that to?

A The food rations were prescribed to the dot and they couldn't deliver any more and they couldn't buy any more than was prescribed.

Q Earlier had the bread ration been greater than this 300 or 350 grams that you got?

A As far as I know it had been 350 grams and

6sp

later it was reduced I believe to 3 0 grams. That was valid as long as I was there. Before that they had gotten more.

Q How much did they get then?

A I can't tell you exactly any more today. I just took a look at the menus which I came across in the kitchen, the menus from the years '41 and '42, and I could determine that at that time they had got about twice as much as in those years as we got when I was there.

Q When you are talking about the fact that they got double as much, are you referring to just the bread or the food in general?

A I am not talking about potatoes or vegetables especially. I don't know if they were doubled, but it gave more flour foods. They were doubled.

Q Would you please explain now the situation in regard to extra rations, the food which you described that applies only to an ordinary prisoner.

A That wasn't all of it even. In the evening they got soup not every day but according to the menu for that day they would get soup.

Q Will you please explain that to the court more accurately. You said in the evening they would get tea, bread and something in addition. Is that right?

A Yes.

Q When you are talking about them getting soup now do you mean that the soup was given them instead of the tea or was the soup in addition?

A They could get soup instead of the tea, but

7ap

the rest of the food remained as it was.

Q Then especially looking at the bread, the jam or cheese or whatever it was, that remained even though they got soup. Is that right?

A Yes.

Q Do I understand you correctly then when you say that many times instead of tea in the evening they would get soup. Is that right?

A Yes.

Q The prisoners who didn't get extra rations did they get anything else?

A Beside the thin s mentioned there wasn't anything extra according to the menus.

Q Which prisoners in addition to this general bill of fare got extra rations?

A The workers who were sent to work got in addition 200 grams bread.

Q When was this ration issued?

A 200 grams bread and 25 grams fat or else 70 grams sausage to eat with the bread.

Q Did these workers then get this extra ration of bread in addition to their regular 300 or 350 gram ration of bread?

A Yes.

Q When did they get that? What time?

A That was gotten in the work details where they worked in the evening between 8 and 9 o'clock.

Q Did these workers get any other additional rations?

A No.

Q Was there any special diet for the people in the hospital?

8sp

A At the time when I was there the food which all the prisoners got had to be prepared also for the people in the hospital. At t at time they didn't get any special preparation of food, any special rations. At that time they hadn't achieved that. I tried to get extra rations for the people in the hospital and with the support of the doctors through the doctor's association there we finally succeeded in getting special rations for the people in the hospital.

Q Were there any special rules regarding the people who worked in the night shift?

A The night shift always got soup in the morning in addition to their regular rations.

Q What did this soup consist of?

A It was a soup made of flour stuffs with some meat in it if there were meat available with rice in it or toast -- whatever was available -- whatever had been delivered.

Q Did you taste the food every day?

A Yes.

We heard a number of times in the course of this trial that the food was very often inedible. Is it true that the food was sometimes bad smelling or bad or how was that according to your opinion?

A The camp physician checked the food every day or the garrison doctor checked it, and the commander of the camp checked the food almost every day or at least every two days and beside that the camp leader.

Well, was the food inedible on many a day?

A I never determined that the food was inedible.

DR. WACKER: Thank you.

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PRESIDENT: Any further direct examination?

R. MAC KAY: Nothing further. You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q When did you join the SS?

A I was drafted on the 7th day of the 9th month '39.

Q When did you join the Death head unit of the SS?

A I never did join it. I was drafted on the 7th day of the 9th month 1939 to Dachau to the Death-head division and I was released from the unit after the French campaign August '40. Then I was transferred to Flossenburg as a cook.

Q Did you join the Allgemeine SS?

A Never, no.

Q Now you never saw Matzke in his block did you?

A No, I never was in the block.

Q And the only thing you know about Matzke is what transpired in the kitchen. Is that not correct?

A Yes.

Q You never had prisoners discussing the merits or demerits of the SS men with you, did you?

A I didn't understand it.

Q Did you ever have prisoners discussing the merits or demerits of SS men with you?

A Yes, we did talk like that in the kitchen. We had a good relationship among ourselves and we talked

10sp

Q How many SS men worked in that kitchen beside yourself?

A Two, three altogether.

And that is including yourself . Is that correct?

A Three altogether including myself.

Q Did any prisoner ever come to you and say that the Rapport leader was a beater?

A No, nothing like that is known to me.

Q Did a prisoner ever come to you and recite to you an instance where the SS were beating the prisoners?

A No.

Q Did you know whether or not the SS beat prisoners there in Flossenburg?

A No, I didn't have anything to do in the camp. I don't know.

Q Did you ever hear about it?

A I can't testify about anything that I might have heard.

Q Well you answer my question please. Did you ever hear about the SS beating prisoners in Flossenburg?

A Seome people said that they weren't the best but I don't remember saying that they beat anyone. I didn't see it myself either.

PRESIDENT: The court desires to caution the witness that the court will receive hearsay evidence. Do you understand what the court means by that?

A No.

PRESIDENT: In other words, the court will receive certain evidence relative to statements made by other

llsp

people to you or in your presence.

A I understand that.

QUESTIONS BY PROSECUTION (CONTD)

Q Now, with that understanding I will ask you again whether or not you ever heard of the SS beating prisoners in Flossenburg.

A No. It was like this. We would carry on conversations and one of the people might say this man isn't the best man and at that time the one they were usually referring to would be Captain Fritsch.

Q Now, who was it that sent the strength report to the kitchen?

A That came from the clerk's office.

Q What clerk's office?

A Department 3. That was the camp administration. They put out the strength reports of the camp. They reported the strength of the camp.

Q What in your judgement was the strength of the camp in April 1945?

A That varied a great deal.

Q What was the greatest number that you had there?

A The highest number but it only lasted for eight days -- the highest number I knew of was 15,000. That is an approximate number. It could have been one way or the other a few more or less, but that only lasted for a short time.

Q And approximately what was the strength in January 1942?

A I don't know that. I wasn't there then.

Q '43?

12sp

A When I came there it was 4,000 December '43.

Q And how many kettles approximately of soup were prepared for the prisoners in April 1945?

A How many kettles of food were prepared? I don't know exactly how many were there in April '45. I believe there were 10 to 11 thousand.

Q Ten to 11 thousand kettles of soup were prepared. Is that correct for the prisoners for one meal?

A No, that was the strength of the camp.

Q Well, approximately how many kettles of soup were prepared for that strength of the camp?

A I will have to figure it out first. I don't know exactly. It was figured out like this: From a kettle of 48 liters 40 people received their food.

Q Well, where did these kettles remain during the day in the kitchen or in the blocks?

A They were immediately sent back to the kitchen and were cleaned up.

Q And were they stacked there in the kitchen?

A Yes.

Q Now this directive that you received from Berlin with respect to the manner of food that the prisoners were to receive, was their manner of food prepared in the course with the directive?

A I didn't understand your question.

You testified that the quantity of food that prisoners were to receive was prescribed by directive from Berlin. Is that correct?

A Yes.

Q Now was the quantity of food that was prescribed by Berlin in the directive actually prepared

13ap

for service to the prisoners?

A Yes.

Q How many SS men ate out of that kitchen?

A None.

Q Didn't you testify on direct examination that SS men would come to the kitchen to eat?

MR. MAC KAY: That is objected to as argumentative. The prosecutor knows this witness never said that.

PRESIDENT: Objection sustained.

Q Well, did you testify that SS men came to the kitchen to visit?

A No.

Q You didn't testify to that?

A No, never.

Q What did the SS men come to the kitchen for?

A Only when they had to do something official, for instance the rollcall leader. He was the only one who had permission to come into the kitchen and to check the kitchen.

Q And he was the only SS man that came to the kitchen. Is that correct?

A He was the only one who was authorized to enter the kitchen and to check the kitchen.

Q I didn't ask you that. Answer my question please.

A You are asking whether anyone else visited the kitchen or not.

Q Any other SS man.

A Only when someone had an official errand and had to take care of some business there.

Q And when they had to take care of business

14sp

there is it a fact that the SS man would take away supplies that normally belonged to the prisoner's mess?

A That is impossible. That is impossible. That didn't happen.

Q How many kilograms of meat were used in the soup each day during January 1945?

A I don't know the exact food rations.

Q Give your best judgement to the court please.

A It was like this: We had to prepare the food according to a very strict menu. The meat would be weighed and according to the card files which we kept every gram of it had to be accounted for.

Q Just answer my question please. Did you understand it? How many kilograms of meat were used in the preparation of the soup for any one day in January 1945?

A That all depended on the number of people for whom the food had to be prepared. That was weighed exactly accurately. For example, as far as I remember for each person there would be 14 grams of meat for a normal user at noon and for workers 20 grams, and that would be cooked for the strength of the camp.

Q All right. And how many kilograms of flour would be used in the preparation of this soup for any given day in January 1945?

A How many kilograms of flour?

Q Yes.

A I didn't understand the question.

Q Do you know what flour is?

A Flour?

Q Yes.

15sp

A I don't know exactly how much was in the ordinary food. I believe around 20 grams a day. That was howmuch we had at our disposal to cook with.

Q Well, what else was in this soup beside the meat and vegetables?

A Meat, vegetables, potatoes and some flour.

Q And how many kilograms of turnips would you use for any given day in January 1945 in the preparation of this soup?

A How many kilograms of flour or what do you mean?

Q Turnips.

A Yes. As far as I remember, it was five or six hundred grams per person.

Q And how many kilograms of potatoes were used for any given day in the preparation of the soup that was served to the prisoners in January 1945?

A I don't know that any more exactly.

Q I want your best judgement.

A I believe at noon it was around four or five hundred grams. I don't know exactly but as far as I remember it would be four or five hundred grams potatoes.

Q In January 1945 approximately how many kettles did you have in the kitchen?

A Eight containing 1,000 and two containing 800.

Q And how many kettles did you have there in the kitchen that were used to distribute the food each day in January 1945?

A All of them.

16sp

Q And how many was all of them?

A All were used for cooking the food. The food was cooked in all the kettles.

Q I am not talking about the kettles that the food was cooked in. I am talking about the kettles that the food was distributed in.

A I believe there were 300 kettles there. There were 300 kettles containing 50 liters each and they were the kettles which were used for distributing the food in the blocks.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

PROSECUTION: Just one second. I have one other matter I would like to ask about.

QUESTIONS BY PROSECUTION (CONTD)

Q You stated that the food was inspected daily by someone from the medical department of the camp. Is that correct?

A Yes.

Q Now just describe to the court the manner in which this inspection was carried out.

A The doctor came into the kitchen and called for some food and tasted it, and then wrote down his verdict over the food, his diagnosis of the food in the kitchen book which was kept in the kitchen and filled out daily.

Q And in what form would that verdict be written?

A In the kitchen book the entire rations, the amounts, what the rations consisted of were put in this book, and then the one who had tested the food, doctor or the commander of the camp whoever had made

17sp

this check would put a notation in the book in regard to the food which he had tasted.

Q And what was the language used in that notation?

A It would be either good, very good or -- I don't know about anything else. Either they put down good or very good or else when they were talking about the special food they got in the hospital they would put excellent.

MR. MAC KAY: If it please the court, I object to this spectator making comments.

(Discussion off the record.)

PRESIDENT: Reporter, will you read the last question and answer please.

(Whereupon the question and answer were read by the reporter.)

DR. WACKER: I am asking whether there was an error here, whether the witness said they wrote these markings down or the one who made the check wrote it down.

PROSECUTION: May it please the court, I suggest that Dr. Wacker be instructed if there is any criticism with respect to the translation that is made, that he object to it and let the court make his corrections in accordance with his objections. I think that that is the usual procedure before this court, and I suggest that that be followed.

DR. WACKER: I could of course do it with an objection. I thought that the more adroit way of doing it would be just to make mention of it.

PRESIDENT: The court feels that a challenge to the interpretation is sufficient as far as that is

18sp

concerned. The court can readily understand that the doctor may not feel the matter is of enough importance to put it in the form of an objection, but is sufficient for the court to authorize him to chall nge it. Dr. Wacker, state your case.

DR. WACKER: I will have to make a formal objection to the translation. The witness said that the doctor or the commander of the camp or whoever was making the inspection put in notations in the book and since I heard the next translation I don't know whether that was said or not. May I say one other thing. The way I understood the last interpretation of the remarks of the witness I understand it to mean that the people who were in the kitchen were the ones who put the mark in the book and that would be wrong.

PRESIDENT: ould youread that again?

(Whereupon the last question and answer were read b the reporter.)

PRESIDENT: Will the prosecutor straighten this matter out with some additional question. Is that satisfactory with you, Dr. Wacker?

DR. WACKER: Yes.

PRESIDENT: There is some confusion about it and the court feels that would be the easiest method to straighten that out. If you are not satisfied after the efforts on the part of the prosecutor, we will give you an additional chance to carry on.

QUESTIONS BY PROSECUTION (CONTD)

Q All right. Now I believe you stated that someone from the medical department inspected the food daily. Is that correct?

19sp

A Yes.

Q And who was it that would make these entries concernin the inspections that were made of the food?

A The party in question who had tasted the food, the doctor or the commander of the camp.

Q And the only language that they ever used to your knowledge concerning the prisoner's food was either good or very good. Is that correct?

A Yes.

Q You never had a poor?

A I never found the word bad in this record book.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did any fat get into the soup?

A Yes, I forgot to say that.

Q How much per prisoner?

A Ten grams. Ten grams or eight grams according to what was ordered on the menu. I can't remember those details today.

PRESIDENT: Mr. Mac Kay, anything further?

MR. MAC KAY: Nothing further, Sir.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q What ever happened to that book in which these entries were made if you know?

A That stayed up there -- all of them.

(Bergmueller - Court)

20sp

Q You don't know where it is now?

A No, I have been away from there for two years.

Q Was the book destroyed prior to evacuation, do you know?

A No, definitely not.

Q That showed all the ingredients in this soup?

A Yes. The card files, all that material stayed as it was. Nothing of that was destroyed.

QUESTIONS BY THE PRESIDENT:

Q Now, these inspectors when they came around, did they ever make an unfavorable report on the mess?

A When the inspector would come whether it would be the damp commander or the person from the medical department sometimes there would be a complaint about the fact that the food was monotonous. They were always getting ordinary turnips. It's self understood that when you eat boiled peas it tastes better than turnips and the administrative leader in the kitchen would have to explain that was all he had to cook at the moment.

Q And the reports were never any worse than good. Is that right? Or the reports were never any different than good, very good, excellent?

A Yes.

Q Well now what was that report based upon, the actual food conditions, or did it include the sanitation of the mess, the condition of the mess personnel, the equipment or what?

A No, it was restricted entirely to the food, how the food tasted and the preparation of the food.

(Bergmueller - Court)

21sp

Q Were those inspectors ever around when the food was being served?

A Whether they were present when the food was being served?

Q Yes.

A I don't understand.

Q Well, were these inspectors, the camp commander and the adjutant and some of the rest of them -- were they ever present when the food was actually being served?

A Yes.

Q And they actually tasted the food, did they?

A Yes.

Q How often did they get around?

A As I figured out there was someone there every day, sometimes two on one day. Perhaps the doctor would be there together with the adjutant of the camp or the commander of the camp.

Q Did you actually have an officer in charge of that particular mess?

A An administrative leader.

Q Was he an officer?

A Yes, a captain.

Q How often did he get around to inspect the mess?

A He was there every day, except for holidays and Sundays and when he was off on business trips. Otherwise he would be there every day. He would examine the food carefully, taste it and check sanitary conditions.

(Bergmueller - Court)

22sp

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q Is it reasonable to assume that in making routine inspections that only the adjectives good, very good and and excellent were used and not the words very poor or fair.

PRESIDENT: What was the answer?

INTERPRETER: No, answer, Sir.

A I didn't understand the question.

(Whereupon the question was repeated in German.)

A The people could have written -- the person in question could have written anything else just as well. I don't have any influence in that matter. None of us could have any influence on them. None of us could raise his voice. It wasn't our business. It was the business of the person in question who was making the examination.

QUESTIONS BY PRESIDENT:

Q Was the mess ever marked poor or unsatisfactory on any particular day by any of these inspectors?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SMYLY:

Q As I understand it you were assistant mess sergeant. Is that true?

A Whether I was assistant mess sergeant, no.

Q What were your duties there in the kitchen?

A I helped with the cooking and serving. There were 30 men there.

23sp

Q Did you feed any prisoners in your kitchen?

A No, that is, no one except the actual personnel there.

Q Did you ever see any of the prisoners served at mealtime?

A I was there myself usually.

Q Where? You mean at the place where they were served?

A Yes. The strength reports arrived from the different work units and from the blocks and according to these reports the food was put into corresponding kettles for the people.

Q And when the food was dished out to the prisoners were you present there at that time?

A No.

Q Then you don't actually know what the prisoners got, do you?

A They came and got the food from the kitchen and as far as we were concerned the case was closed then.

Q I want to know if you actually saw the food issued or ladled out to the prisoners.

A No.

Q Then you don't know what the prisoners get to eat -- that is, how much.

A I didn't see that.

Q Did you ever hear of any prisoners being hungry?

A Yes, I heard that a number of times. They often came to the kitchen and tried to get a bite to eat, and as far as I could do it, I helped each one

24sp

out who came to the kitchen.

Q You don't actually know what the prisoners got to eat. You know what he was supposed to get. Is that true?

A We knew what his ration was, what he was supposed to get.

PRESIDENT: Further questions by members of the court? Apparently not. Defense?

REDIRECT EXAMINATION (CONTD)

QUESTIONS BY DR. WACKER:

Q What was the name of the administrative officer who almost daily checked the food?

A Captain Kirsammer.

Q When they made these notations, good or very good in this book did they mean that the food in general, what the people ate was good or very good or did they mean that the people who prepared the food had done the best they could with the food and made the best food out of the available materials? Which did they mean?

PROSECUTION: I object to that may it please the court on the ground that it is leading and suggestive.

DR. WACKER: I believe that in this case a leading question is allowable because we are trying to clear up a matter here. When matters have to be cleared up and where it's obvious that a witness isn't understanding all the questions, it's allowable to pose a leading question in direct examination.

PROSECUTION: I don't object to that may it please the court, but I do object to his practically putting his words in the mouth of the witness. There are other ways he could lead him that I think would

25ap

be eminently fairer.

PRESIDENT: The objection is sustained. Rephrase your question if necessary.

PROSECUTION: Just one question.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Look over in the dock, point out to the court any person you see there that made these inspections of the food.

MR. MAC KAY: I must object to this as exceeding the scope of recross examination.

PROSECUTION: May it please the court, he has been talking about somebody that has been making these inspections and he just elicited from the witness the name of some Hauptsturmfuehrer and I think I have a right to find out who else it was.

PRESIDENT: The objection on the part of the defense counsel, Mr. Mac Kay, is overruled.

(Whereupon the last question was read.)

PRESIDENT: Step right down, come right in front of the bench here.

A Up there. There is one of them sitting. Yes, that is he.. (Indicating).

Q Do you know his name?

A. No, I know that in a capacity of deputy camp leader he was in the kitchen once.

PROSECUTION: Let the record show may it please the court that the witness has indicated the accused wearing the number 33 whose name is Pachen.

Q Anybody else?

A The camp doctor, Dr. Schmitz.

26sp

PROSECUTION: Let the record show, may it please the court, that the witness indicated the accused wearing no. 40 Dr. Schmitz.

Q Anyone else?

A No, I don't know anyone else.

PROSECUTION: No further questions.

PRESIDENT: Dr. Wacker?

REDIRECT EXAMINATION (CONTINUED)

QUESTIONS BY DR. WACKER:

Q When did the one whom you have identified as 33 carry out these inspections in the kitchen?

A He was there once at noon. I don't know any more exactly.

Q Approximately what year was that?

A I don't know whether it was '44 or '45.

MR. MAC KAY: If it please the court, due to the absence of Mr. Hall, I would like the court's permission to inform Mr. Hall that the identification of the accusedDr. Schmitz and this witness be held so that Mr. Hall has any further cross examination he may be given the right to do so.

PRESIDENT: Mr. Mac Kay, the court will give Mr. Hall an opportunity to handle that situation after the recess but what the court would like to find out right at the present time whether you have any further questions or Dr. Wacker.

MR. MAC KAY: As far as counsel here, there are no further questions.

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court?

(Bergmueller - Redirect)

27 sp

EXAMINATION BY COURT (CONTD)

QUESTIONS BY LAW MEMBER:

Q You said that Pachen was in the kitchen once. Do you mean by that that he was in the kitchen making an inspection or just present in the kitchen?

A He tasted the food and made the inspection. I don't know whether he was the deputy camp leader or not. I couldn't know exactly.

Q Do you know what kind of a rating he gave you on the food, good fair?

A No, I don't know any more today.

PRESIDENT: Any further questions by members of the court? Apparently not, the court will take a half hour recess.

(Whereupon at 1500 hours the court recessed.)

(Whereupon at 1530 hours the court reconvened.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution except Col. Denson and Mr. Pinter who are absent on business of the prosecution. All of the defense are present with the exception of Major Oeding, Mr. Hall and Dr. Angelhorn who are absent on business of the defense. All of the defendants are present with the exception of Oswalt and Buddensieg who are sick in the hospital and whose interests are being taken care of by their respective counsel.

Any spectators in the courtroom who expect to be called as witnesses will please leave the courtroom.

JOSEF BERGMUELLER, called as a witness for the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PRESIDENT: The court has appointed Rudolf Schubert as interpreter;he will be sworn.

(Whereupon Rudolf Schubert, U.S. Civilian was sworn as court interpreter.)

MR. MAC MAY: If it please the court, at this time I must inform the court that Mr. Hall who represents Dr. Schmitz is absent on business of the accused and I request that this witness be excused at this time subject to being recalled for further cross if that is necessary Monday morning.

PRESIDENT: This witness will be available and will be subject at any time that the defense sees fit to cover the matter in question. The court understands the defense has rested as far as this witness is

concerned for the time being.

MR. MAC KAY: Yes, sir.

PRESIDENT: The witness will be excused.

(Thereupon the witness withdrew from the courtroom.)

MR. MAC KAY: The next witness is being called on behalf of the accused No. 46. Call Willy Grau.

WILLY GRAU, called as a witness by the defense being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MAC KAY:

Q Will you state your name for the court.

A Willy Grau.

Q What is your present business or occupation, Mr. Grau?

A Waiter.

Q And where do you live at the present time, Mr. Grau?

A Weiden Oberpfals.

Q Were you ever a prisoner in Flossenburg concentration camp?

A Yes.

Q When did you arrive at Flossenburg concentration camp as a prisoner?

A I belonged to Flossenburg since July '42.

Q When did you arrive at the main camp of Flossenburg?

A 28 October '42.

Q And how long did you remain in the main camp of Flossenburg?

A From October '42 until May '43.

Q During that period of time that you were in

Sep

the main camp of Flossenburg what detail were you assigned to work on?

A I worked on a roof.

Q During the time that you worked on this roof detail just where did you work in the camp of Flossenburg?

A On all roofs that needed repairs.

Q Were those roofs located on the buildings that were actually located in the camp itself?

A Yes, the barracks.

Q During the time that you worked on this roof detail did you ever come in contact with a man by the name of Weilbach?

A Yes.

Q What was the nature of your contact with the man named Weilbach?

A He was our over capo in the camp.

Q Will you explain what you mean when you say he is your over capo in the camp.

A He was superior of the capos of the other details.

Q Well now the details that worked under Weilbach worked where in the camp?

A They were painters. They were electricians. They were the roofing detail. Everything that was connected with the camp.

Q During the time that you knew Mr. Weilbach as over capo of the camp did you have an opportunity to observe his treatment of prisoners who worked under him?

A Yes, if it could be seen, I saw it. It must

lsp

be seen.

Q Well now, will you explain to the court just what you saw with regard to Weilbach's treatment of the prisoners who worked under him.

A I am speaking now of the time where he detailed me to take care of the heating plant in a barracks. It was the time from February to March '43 when I got in close contact with him and stood under his supervision. We were ten to 12 comrades to work in these barracks. He came through and controlled us. Although it was strictly forbidden to get potatoes and to cook potatoes, he was able to see that we did that. He let us go ahead. He did not prohibit it. He was decent with us. He left us alone. Of course when he came through we had to move a little bit. In the time we worked under him, we had no cause for complaint.

Q Did you observe him on any other occasions working with other prisoners other than yourself?

A I cannot say observe. One did see him and I cannot remember that anything big happened during my time.

Q Do you think that you could recognize Mr. Weilbach if you saw him again?

A Yes.

Q Will you look at the prisoners in the dock sitting behind me and see if you recognize a man which you knew as Weilbach?

A The fifth from the left.

MR. MAC KAY: Let the record show that the witness has identified the accused wearing the No. 48 as the man he knew as Weilbach.

5sp

MR. MAC KAY: You may cross examine him.

MR. BERKOWITZ: No questions.

PRESIDENT: Any questions by any member of the Court? Apparently none.

MR. MAC KAY: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom).

MR. BERKOWITZ: If the court please, may I have a few moments to confer with Mr. MacKay.

PRESIDENT: The court will take a few minutes recess in place.

(Whereupon the court at 1550 hours took a recess in place).

* * *

(Whereupon the court reconvened at 1553 hours)

PRESIDENT: The court will come to order.

MR. MAC KAY: If it please the court, the next witness which the defense planned to call was one of the accused himself but due to circumstances with regard to the prosecution which they can explain, it is felt that it is inadvisable to introduce that witness at the present time, and the defense requests that the court adjourn until Monday morning.

MR. BERKOWITZ: If it please the court, the prosecution joins in that request. The next witness to be put on the stand by the defense is one of the defendants himself. Colonel Denson is presently absent on business of the prosecution and I expect to be away on Monday on business of the prosecution. I think it would be unwise to put the defendant on the stand at the present time so that one man would get

6sp

his testimony and another man be left with the cross examination. Under the circumstances here I join in the request of Mr. Mac Kay.

PRESIDENT: Request of Mr. Mac Kay which has been joined in by the assistant prosecutor Mr. Berkowitz will be given full due consideration by the court. The court will adjourn until 9 o'clock Monday morning.

(Whereupon the Court recessed at 1557 hours.)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Court Trial Duplicate Copy

FLOSSENBURG Pages 3635-3702

Case No. Prosecutor

*~~Summary~~
*~~Intermediate Military Court~~
*General Defence Counsel

Place DACHAU, GERMANY Interpreter

Date 16 SEPT. 0905-1700 hours 194 6 Reporter

~~Members of Court~~
WITNESSES:
FUCHS, JOHANN
WISSMAN, EDMUND
KUEPNER, ADOLF
WITTIG, DR. KARL

Accused FRIEDRICH BECKER ET AL.

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, et al.

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

16 Sept. 1946 - 18 Sept. 1946 0905 hours to 1700 hours PAGES 3635-3702 INC.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
FUCHS, JOHANN	3638	3648	3660	3671	3664
WISSMAN, EDMUND	3676	3679			
KUEFNER, ADOLF	3681	3690	3695		
RITTIG, DR. KARL	3696				

EXHIBITS

Number	Description	For Ident.	In Evidence
P 67	Arrest record Johann Fuchs	3653	

CAMP DACHAU, GERMANY
16 September, 1946.

MORNING SESSION

(whereupon at 0910 hours the court was convened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Minter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Maj. Oeding, Dr. Hacker and Dr. Engelhorn; Dr. Hacker is sick and Maj. Oeding and Dr. Engelhorn are absent on business of the accused. All of the accused are present with the exception of Oswalt, Biscuach, Buddenbieg and Jakubith who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Col. Wilson.

DEFENSE COUNSEL: May it please the court, much as I dislike to delay the progress of this trial I feel it necessary to ask for an adjournment until Dr. Hacker can be brought back. I understand that his illness is rather severe. I don't know how long it will last. I would be willing to continue in his absence for perhaps a half a day or something like that but he represents eight of the accused and I am going to ask Col. Skielvig to be kind enough to give the court the particulars of his illness. Col. Skielvig, I understand, was with Dr. Hacker yesterday.

PRESIDENT: Col. Skielvig.

COL. SKIELVIG: Yes, I talked to Dr. Hacker in his home at Stuttgart yesterday and he is suffering from a fever and, according to his physician, it will probably be about three days before he returns.

PRESIDENT: I understand, Col. Wilson, the defense would like an adjournment until such time as to allow Dr. Wacker to recover from his temporary illness?

DEFENSE COUNSEL: I feel it my duty to ask for that, yes, sir.

(discussion off the record)

PRESIDENT: Has the prosecution anything to add?

PROSECUTION: I am opposed to any further delay in this case, may it please the court.

PRESIDENT: The court feels exactly the same way, Mr. Prosecuter, but at the same time it is necessary for the court to consider the position of the defendants. After the statement of Lt. Col. Wilson the court feels it would be more or less of an injustice if this case continued right at the present time in the absence of one of the defense counsel who represents eight of the defendants. Col. Wilson assures the court that he does not feel out of justice to the defense that the case can continue without the defense counsel Dr. Wacker.

MR. M'KAY: May it please the court, due to the fact that the witnesses who are coming on---they may affect some of Dr. Wacker's clients---and I think it is important that he be here to have an opportunity to cross-examine several of the witnesses who are directly involved in situations in which Dr. Wacker's clients are also involved.

PRESIDENT: Col. Wilson, if there is any possible way to rearrange the time these prospective witnesses are due to take the stand so that the case can continue without Dr. Wacker the court suggests you follow that policy.

DEFENSE COUNSEL: Sir, I just learned, less than an hour ago, of Dr. Wacker's illness. I am certainly not anxious to delay the case. If we can find witnesses to put on who will not affect Dr. Wacker's clients I shall notify the court to that effect and

try to do that this morning and see what I shall find out.

PRESIDENT: The court will adjourn to meet at the call of the president.

(whereupon at 0920 hours the court adjourned)

3637

CAMP DACHAU, GERMANY
18 SEPTEMBER, 1946

MORNING SESSION

(Whereupon the court reconvened at 10'0 hours).

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution, all members of the defense are present, with the exception of Major Oeding, Mr. Hell and Dr. Wecker; the first named counsel are absent on business of the accused; the last named counsel is sick; all the accused are present with the exception of Olschewski, Puddenzieg and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

DEFENSE COUNSEL: May it please the court, the witnesses whom the defense expect to call today are not expected to touch any of the accused represented by Dr. Wecker.

MR. McKAY: The first witness is being called on behalf of the accused number 37 and number 16. Call Johann Fuchs.

JOHANN FUCHS, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name for the court?

A Johann Fuchs.

Q Where are you residing at the present time, Mr. Fuchs?

A In Camp Dachau.

Q Are you now being held in the custody of the American authorities?

A Yes.

Yes.

MR. MURPHY: May it please the court, in view of the fact that this witness is being held by the American authorities, I have advised him of his rights. I request the court to again advise him of his rights.

PRESIDENT: The court feels it necessary to advise you of your rights at the present time. Should you be asked any question that might tend to incriminate you, you may ask the court for permission to refrain from answering. Do you fully understand your rights?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. MURPHY:

Q Mr. Fuchs, were you ever a prisoner in Flossenburg Concentration Camp?

A Yes.

Q When did you arrive in Flossenburg as a prisoner?

A In July, 1942.

Q How long did you remain in Flossenburg as a prisoner?

A Until the liberation in 1945.

Q During the time that you were a prisoner in Flossenburg did you ever work in the Messerschmitt factory?

A Yes, I worked in the Messerschmitt factory since January 1944, until August or September. I first worked in the civilian hall and then after that I was in the camp.

Q During the time that you worked in the Messerschmitt factory, what particular details did you work on?

A I worked in civilian hall number 1, building airplane wings.

Q Who was the capo on your detail at that time?

A Mauser.

Q How long did you continue to work on Hauser's detail?

A Up until around September.

Q Will you explain to the court the nationalities of the prisoners who also worked on the detail of Hauser with you?

A You mean the people that worked down there?

Q Yes. What were the nationalities of the prisoners who worked on the detail with you at the time you worked on Hauser's detail?

A They were Russians, Poles, Frenchmen, Germans, and as far as I know, there were two Greeks and some Italians.

Q Will you explain to the court how the men were divided up during the time they actually worked on Hauser's detail?

A Please repeat the question.

(Thereupon the question was repeated by the interpreter).

A How the work was divided up?

Q Yes.

A The people were divided up into individual Takts, work units. Each Takt had about five or six people working in it. There were eight Takts or work units working on each wing and the people were divided up differently but in each Takt or work unit there were six people.

Q Which particular Takt did you work on yourself?

A I worked in Takt 5.

Q Will you explain to the court just where that Takt was located in relation to the other Takts which were working on Hauser's detail at that time?

A I do not understand the question.

Q Will you explain to the court just where your particular Takt on which you worked was located in relation to the other Takts which were working on that detail under Hauser at the time you were

working over there?

A My Fakt worked in the back. It was next to the last one working on the next to the last group of wires. The wires were spread out there.

Q During the time that you worked on Heuser's detail, did you have an opportunity to see how he treated the prisoners who worked on the various Fakts on his detail?

A Yes.

Q Do you know how many shifts worked in the hall where Heuser's detail was working during the period of a day?

A Two shifts.

Q Will you explain how these shifts worked with regard to day and night work?

A One shift worked from six in the morning until six at night and the other shift from six or six-thirty at night and worked until six in the morning and was relieved by the morning shift.

Q During the time that you worked on this detail under Heuser did you always remain on the same shift?

A Yes, I always stayed on the same shift.

Q During that time did your shift change at all from working day and night?

A Yes, there were two shifts. The first shift was under Heuser and the other shift was under another boss.

Q Now will you explain to the court whether your shift always worked in the daytime or was it ever changed?

A The shifts were changed. The one shift would work for one week by day, the next week it would work by night and the opposite shift would work by night instead of by day.

Q I want you to describe to the court just what you saw Heuser do in relation to his treatment of other prisoners while you worked

under him.

A He came into the hall in the morning, where we all had to drew up in line and he divided the prisoners up into various Takts. That was his duty as capo. He counted off all the people to see if they were all present and reported anyone that was missing. Then we had to go to work. As capo, he would go from one Takt to the other to see whether the work was progressing and would ask the group leader in each Takt how the work was progressing. If there was a shortage in the work in the Takt, the group leader had to report that to the capo and it was up to the capo then to make an order, -- to put up an order to eliminate this shortage. The capo would put himself in communication with the civilian master and the shortage or the broken part would be fixed.

Q During the time that you observed Hauser going to these various Takts to supervise them, did you observe how he treated the individual prisoners who worked on the Takts?

A I could see that because he always came to my Takts.

Q Will you please explain to the court what you saw Hauser do with regard to the other prisoners in his treatment of them when you would observe him when he came to your Takt?

A As far as I know, I never saw him beat anyone at all. It often happened that somebody would be stubborn and Hauser would call him to account, but I never saw him hit anyone.

Q During the time that you worked there, will you explain to the court what the talk was among the prisoners with regard to Hauser's treatment of them?

A I could not make myself understood with the foreigners. I did not know what they said about Hauser.

Q Will you explain to the court what you saw with regard to people having to be removed from the Takt at any time?

PROSECUTION: May it please the court, I object to that. The counsel is leading the witness. The question is leading and suggestive.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. McKAY:

Q During the time that you worked on this detail under Hauser, did you ever see anybody taken away from the detail?

PROSECUTION: The same objection, may it please the court.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. McKAY:

Q Do you think you could identify Mr. Hauser if you saw him again?

A Yes.

Q Will you look over the men who are seated in the dock behind me and see if you can identify the man you knew as Hauser?

A There, the second, number 18. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused wearing number 18 as Hauser.

QUESTIONS BY MR. McKAY:

Q During the time that you were in Flossenburg, did you ever live in block 6?

A Yes.

Q When did you first begin to live in block 6?

A I went to block 6 in 1944.

Q Do you remember what month you went there?

A That must have been in February when I went to the Messerschmitt plant.

Q How long did you continue to live in block 6?

A I was in block 6 until around September or October.

Q During the time that you lived in block 6, which wing did you live in?

A I lived in wing A.

Q During the time that you lived in block 6, did you ever come in contact with a man by the name of Retzleff?

A Yes.

Q Will you explain what duties Retzleff had in the block, if any?

A Petzleff did not have any actual duties. Whatever he did, he did on his own initiative because order had to be kept in the block. He helped make the dormitory clean. He distributed food once in a while when the permanent orderly was away on some official matter.

Q During that time that you and Retzleff were living in block 6, can you give any estimate as to the number of prisoners that were living in that block?

A That varied. It was constantly changing. There were always new arrivals. It could have been around 300.

Q Will you tell the court by what name Retzleff was known in block 6 while you were there?

A Yes, they always called Retzleff "Father Fridolin."

Q Do you know how he came to have that name?

A Once in a while he would come over to Wing A and tell about his brother who was a priest and the block leader said to him, "You would have been a good man for that position too; if you had taken it you would not have ended up in a concentration camp."

Q During the time that you knew Retzleff in block 6 did you have an opportunity to observe how he treated other prisoners who lived in the block?

A Yes.

16-3Km-2/18-8

Q Will you describe for the court what you saw in regard to Petzleff's treatment of his fellow prisoners during the time that you lived in block 6?

A I often went over to him, because I had comrades there also. I usually went there evenings. It was prohibited to write letters in anything except German and I saw him writing letters for foreigners in German and whenever he got a hold of any extra food he would give it to those people who had helped him. They were usually foreigners.

Q During that time, did you ever observe anything else in regard to Petzleff's conduct towards the prisoners living in block 6?

A No.

Do you know to what detail Petzleff was assigned to work during the time he lived in block 6?

A He was in the survey department in the Messerschmitt factory.

Q Did you ever observe his detail at work?

A Yes.

Q Did you observe how Petzleff treated the prisoners who worked under him?

A Yes.

Q Will you explain to the court what you saw with regard to Petzleff's treatment of the prisoners who worked under him?

A Once in a while I would come out of the hall where I was working and go down past the spot where Petzleff's work outfit was working. Once I came down, there was a hangar standing there and they had to lead a damaged airplane into this hangar. I saw that the workers were working there of their own free will, voluntarily, and Petzleff talked to me about that. He told me he did not have any trouble with the men on his work unit.

Q Will you explain to the court what you observed with regard

(Fuchs-Direct)

to Setzleff's talking with prisoners of various nationalities'

A He could make himself understood with the people. I don't know whether he learned to speak that language in the camp or whether he had knowledge of languages. At any rate, he could make himself understood with the people on his commands.

Q What were the nationalities of the people who were under him on his commands?

A There were Russians, Poles, Jews, Frenchmen. There were various nationalities divided up. As far as I know, no particular nationality was selected.

Q During the time that you were in block 6 were you permitted to receive packages?

A Yes.

Q Were you ever present at any time when Setzleff received any packages?

A Yes.

Q Did anything occur at that time?

A Yes. Setzleff, when he got a package, went over to the block eldest and took the package with him and gave it to the block eldest. The people who were standing around looked at the package longingly, and here as everyone was hungry Setzleff gave everyone something from the package. He kept almost nothing for himself.

Q Do you think you could recognize Setzleff if you saw him again?

A Yes.

Q Will you look at the man seated behind me in the dock and see if you can recognize the man you know as Setzleff?

There, number 3. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused person number 37 as Setzleff.

(Fuchs-Direct)

(Fuchs-Cross)

Lb6-3M-9/19-10 QUESTIONS BY MR. McKAY:

Q Going back to the time when you worked on Hauser's detail in the Messerschmitt factory, will you explain to the court who distributed the food during the lunchtime while you were working on that detail?

A It very seldom happened that Hauser distributed the food. There was a certain Mr. Hartmann working in the warehouse who distributed the food but Hauser saw to it that everyone got his individual portion.

Q When you arrived to work on Hauser's detail, what wage were you allowed for work on that detail?

A When I was through working there I earned as an average five or six marks a month, -- I don't remember exactly.

Q What did you receive when you first went to work on that detail?

A I believe I got two or three marks a month when I first began to work there. At the very beginning it was two marks a month.

Q Was there any change in your pay during the period of time that you worked on Hauser's detail?

A Yes.

Q What was the nature of that change?

A It was changed in such a way that at the very end I was earning twelve to fourteen marks a month in Hauser's detail.

Q Do you know how that change came about?

A Hauser went down to the work manager, told him that the work was going along smoothly and he naturally asked that his workers get more money.

Q Do you know whether the prisoners who worked with you got any increase in pay?

A Yes, every one earned more after that. I know that the

Russians and Poles who at the beginning earned only fifteen pfennigs or two marks a month, got at the end as a very minimum, three or four marks.

Q Do you know how this change came about?

A Yes, Hauser saw to it that that change came about. He went and spoke to the work manager upon the approval of the civilian master and they brought it to their attention that the work was going smoothly and that there was no reason for complaints.

Q During the time that you observed Hauser going from one detail to the other, did you ever observe him carrying anything in his hands?

A No, -- yes, once in a while when he had to do some sort of repair work he would have a tool in his hand.

Q Did you ever see anything else other than a tool?

A I didn't see anything except tools or whatever he needed to do his work.

MR. McKAY: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q When you first started working there you were classified as an unskilled laborer, were you not?

A Yes.

Q At the end you were classified, or rather, when you got this increase, you were classified as a skilled laborer, were you not?

A I was no skilled worker.

Q You were classified as such, whether you were in fact or not. Is that not true?

A I assumed that they did classify me as a skilled worker because of this increase in salary.

Q Is it not a fact that that salary that you received was

only a fractional portion of the amount that was received by the concentration camp for your services?

MR. McKAY: That question is objected to for the reason that it calls for a conclusion of the witness and not a statement of fact.

PROSECUTION: I asked, "Is it not a fact --", may it please the court. If it is not a fact, he may say it is not a fact.

MR. McKAY: There is nothing in the testimony of this witness to show whether he knew in any way what the camp received and the question would constitute merely a conclusion on his part, regardless of the words "is it not a fact."

PROSECUTION: He is going into this question of pay, may it please the court, and I have a right to go into this entire question again.

PRESIDENT: The objection is overruled.

THE WITNESS: What was the question, please?

(Whereupon the last question was read by the reporter as follows:

"Is it not a fact that that salary that you received was only a fractional portion of the amount that was received by the concentration camp for your services?")

THE WITNESS: I don't know how you can talk about a fraction; it was a "thank-you" for the work which we had to perform there.

PROSECUTION: Is it not a fact that the concentration camp received from the Messerschmitt works a rate of pay based on the classification of the prisoners, whether they be skilled or unskilled?

MR. McKAY: The question is objected to as calling for a conclusion of the witness and not a statement of fact.

PRESIDENT: The objection is overruled.

THE WITNESS: You mean whether the Messerschmitt factory put me at their disposal? I don't know.

CROSS-EXAMINATION BY PROSECUTION:

Is it not a fact that the Messerschmitt factory paid the

concentration camp for the labor that was performed there in this plant?

MR. MCKAY: That question is objected to as argumentative in form. The witness just previously stated that he did not know.

PRESIDENT: The objection is sustained.

PROSECUTION: Will you read that question, please?

(Whereupon the question was read by the reporter as follows:

("It is not a fact that the Messerschmitt factory paid the concentration camp for the labor that was performed there in this plant?")

QUESTIONS BY PROSECUTION:

?Do you know whether or not the Messerschmitt factory paid the concentration camp for the labor that was performed in their plant?

MR. McKAY: The question is objected to as being repetitious

PRESIDENT: The objection is sustained.

PROSECUTION: May I have the record read back? I was not sure I recall the witness' answer to the question propounded.

(Whereupon the record was read by the reporter as follows:

"Question: Is it not a fact that that salary that you received was only a fractional portion of the amount that was received by the concentration camp for your services?

"Answer: I don't know how you can talk about a fraction; it was a "thank-you" for the work which he had to perform there.

"Question: Is it not a fact that the concentration camp received from the Messerschmitt works a rate of pay based on the classification of the prisoners, whether they be skilled or unskilled?

"Answer: You mean whether the Messerschmitt factory put me at their disposal? I don't know.

"Question: Do you know whether or not the Messerschmitt factory paid the concentration camp for the labor that was performed in their plant?")

PROSECUTION: I submit, may it please the court, that these questions are not the same, and that they are not repetitious. It

11Ma-Mi-6/18-11

obvious from the witness' answer that there was some question in his mind about what was meant by the question when he stated, "You mean put me at their disposal".

PRESIDENT: The court feels, Mr. Prosecutor, that the witness has answered to the effect, "I don't know."

PROSECUTION: That is what I am trying to find out, if it please the court.

PRESIDENT: It covers the situation. The objection is sustained.

QUESTIONS BY PROSECUTION:

Q Do you know from where the money came that you received as this "thank-you" for the labor?

A That is more than I know.

Q Do you know whether or not it was for the benefit of the concentration camp that your classification was changed from unskilled to skilled?

MR. MURRAY: The question is objected to as being repetitious.

PRESIDENT: The objection is overruled.

THE WITNESS: Will you please repeat the question?

(Whereupon the question was read by the reporter.)

THE WITNESS: I cannot tell you anything about that because I had too little insight into what connection the Messerschmitt factory had with the concentration camp.

PRESIDENT: Caution the witness to speak louder and to speak directly to the court.

(Whereupon the interpreter did as directed.)

QUESTIONS BY PROSECUTION:

Q You were a group leader or a trainer of the employees of the Messerschmitt factory, were you not?

A Yes.

(Fuchs-Cross)

6-GRH-5/18-16

labor.

PRESIDENT: Mr. Prosecutor, if you want to rephrase your question in order to avoid the monetary angle, the court will give it consideration.

Off the record.

(Discussion off the record.)

PRESIDENT: On the record.

QUESTIONS BY PROSECUTION:

Q From the Tokt that you worked on, were you able to observe all of the Tokts that were in Hauser's detail?

A No.

Q How long did you work as a group leader, a trainer of employees?

A Around two months.

Q Was it not nearer to eight months?

MR. McKAY: That question is argumentative in form. The witness said two months, -- now the prosecutor says, "wasn't it nearer eight months."

PRESIDENT: The objection is overruled.

THE WITNESS: No.

PROSECUTION: I ask that this document be marked prosecution exhibit number 67 for identification.

(The document referred to was marked Prosecution Exhibit No. 67 for identification.)

QUESTIONS BY PROSECUTION:

Q I hand you a document which has been marked Prosecution Exhibit Number 67 for identification and ask you to examine that and state what it is.

MR. McKAY: I would like the courtesy of the prosecution to at least let me see the exhibit before it is handed to the witness.

PRESIDENT: The court wishes t inform the defense counsel

that he will have full opportunity to scrutinize the document in question.

PROSECUTION: Excuse me.

(Whereupon the prosecution handed the document to Mr. McKay)

QUESTIONS BY PROSECUTION:

Q Examine that and state what it is, please.

A That is my arrest, 1937.

Q Have you looked at it?

A Yes.

Q Have you read it?

A Yes, I wrote it with my own hands.

Q Is that your signature on the last page of the document marked Prosecution Exhibit 67?

A Yes.

Q Will you read to the court, please, this statement down here on the last page of the document marked prosecution exhibit 67 for identification?

A (Reading): "I wrote this statement willingly with my own hand in Camp Dachau on the 4th of October 1945 at 1500 hours. I swear by God the Almighty that I will speak the truth, the whole truth and nothing but the truth."

Q I hand you the back of page one of the document marked Prosecution Exhibit 67 and ask you to read this sentence (indicating) to the court.

A (Reading): "I was employed for eight months in the Messerschmitt factory as a group leader and as a master to teach the apprentices the work but I had to still do the work which was ordered me, exactly as any other prisoner."

Q What is your nationality?

A Austrian.

3MG-Sm-9/18-18

Q During what dates were you on Hauser's detail?

A From January or February, -- I can't tell you the exact time, -- January or February, until around the end of September.

Q These were the eight months that you worked in the Messerschmitt works as a trainer or group leader of other prisoners. Is that correct

A I was down there for the eight months, that is right, but it is a fact that the first month or two, or at least the first few weeks I wasn't active as a group leader and I couldn't teach anyone else the work because I had to learn it first myself.

Q Is it a fact that Hauser carried a gummi around with him?

A A rubber hose. Well, whenever he had to do any work he would carry the rubber hose from one spot to the other.

Q What was the type of work that he did with this rubber hose?

A The air compression machines were fastened on to the rubber hoses, and whenever a hose burst Hauser would take the rubber hose down to a smithy, who would put it in a vise and fix it.

Q How frequently would you see Hauser with this rubber hose?

A I saw him twice. It could have been five or six times.

Q That was five or six times while you were working on his detail. Is that correct?

A I saw that during the time when I was in his work detail.

Q That does not include the eight months that you were a leader, a group trainer of the prisoners. Is that correct?

A It was during the time that I was working there. I wasn't group leader the whole time. I was only group leader the last two months.

Q When you made the statement on the 4th day of October, 19 5, under oath, your recollection of what you were in Camp Flossenburg at that time was clearer than it is now. Is that not true?

IRM-Ml.6-9/16-19

MR. MCKAY: That question is objected to as argumentative in form.

REDIRECT: The objection is overruled.

THE WITNESS: I have been in arrest for one very year again, and when you are in arrest you get confused. I can't remember the exact details any more.

REDIRECT EXAMINATION:

Q That is the reason I asked you, -- is it not a fact that your recollection was better in October, 1945 than it is now?

A I can't contest that. At that time when I had to write it down, I did not understand it all completely. I didn't know whether I should write it down as a group leader or a civil worker.

Q Well, you knew the difference at that time between a group leader and a camp worker, did you not?

A Yes, I knew the difference. The last position in the camp before I left it was as a group leader. I kept that position until I went out of the camp.

Q And at that time, on the 4th of October you swore that was the whole truth, did you not?

A Yes.

Q How frequently did Hauser have stubborn prisoners on his detail?

A I can't remember that in detail either.

Q Is it a fact that you do remember that he called these stubborn prisoners to account for their stubbornness?

A Yes.

Q Do you recall that he sent these prisoners whom he called them to account for their stubbornness?

A I never saw that.

Q Do you recall having heard that?

A I couldn't have heard that either because I worked in the (Fuchsberger)

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factory all day long, where there were 150 compressor hammers and you couldn't hear yourself speak.

Q Well, you were able to converse with prisoners other than at the Messerschmitt works, were you not?

A Yes, Hauser was at the other end of the hall. I was on the last two Takts with the steve in between and I couldn't see what was going on up front.

Q All right. Now, when you knew Ketzleff in block 6, you were block eldest of one of the wings of block 6, were you not?

MR. McKAY: That question is objected to as improper in form and argumentative. There is no such thing as a block eldest in each wing. It is a distortment of the facts.

PROSECUTION: I think the question is clear, may it please the court. If there was a such title as that the witness can say that. Mr. McKay is not under oath testifying as to what they had or did not have.

PRESIDENT: Read the question, please, Miss Reporter.

(Whereupon the question was read by the reporter.)

PRESIDENT: The objection is overruled.

THE WITNESS: I was no block eldest during the time when I was quartered in block 6. I was working in the Messerschmitt factory.

QUESTION BY PROSECUTION:

Q Where were you living when you were working in the Messerschmitt factory?

MR. MCKAY: The question is objected to as repetitious.

PROSECUTION: I do not recall that that question has been asked by the prosecution, may it please the court.

PRESIDENT: The objection is overruled.

THE WITNESS: I lived in block 6 when I worked in the

(Fuchs-Cross)

Tk Lh6-BS 6/10-21 the Messerschmitt factory.

Q What position did you hold in block 6?

A None at all.

Q Were you ever a block eldest?

A No, -- at the end.

Q At the end of what?

A When I got away from the camp. That was three or four weeks before the liberation.

Q What was the number of the block that you lived in last?

A The last block where I lived was number 10.

Q How long did you live in that block?

A That was around two and a half to three months.

Q How long did you live in block 6?

A I was in block 6 from around February until September.

Q What was the number of the block that you were made executive of?

MR. McGAY: If the court please, I object to that question on the ground that it is argumentative for the reason that there is nothing in this record to show that he was executive of anything.

PROSECUTION: I will withdraw that question, may it please the court.

PRESIDENT: Proceed.

QUESTION BY PROSECUTION:

Q Were you ever made a block executive at any time while you were in Flossenburg?

A When I was in block 10, the block eldest there, whose name was Fetacker, died and they made me temporary block eldest of the block. What I would like to remark here is that I was only there as a temporary replacement until the camp eldest could send down a permanent block eldest.

(Fuchs-Gross)

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Q How long did you hold that position as temporary block eldest?

A It was perhaps three weeks.

Q What was the occasion for you being made block eldest, -- acting block eldest?

MR. McKAY: That is objected to as repetitious. He just answered that before.

PRESIDENT: Read the question, Miss Reporter.

(Thereupon the question was read by the reporter.)

PRESIDENT: The objection is sustained.

PROSECUTION: May it please the court, he said the other men died.

QUESTIONS BY PROSECUTION:

Q What was the occasion for your being selected as acting block eldest as opposed to other prisoners being selected for that position?

A I don't know that.

Q On how many occasions did you see Retzloff working with his detail in the Messerschmitt works?

A I can't remember any detailed occurrences but I must have gone by there five or six times roughly.

Q That is, five or six times over what period of time?

A I often went by there twice in one week and then for a period of one or two weeks I didn't go by there at all.

Q But the total number of times that you saw Retzloff working with his detail was five or six, is that correct?

A That's about right.

Q That was in January or February 1945?

A No, that was much later.

Q When?

Tk Lw6--RH-9/1 -23

A around in the summer.

Q Of '45?

A June, -- July, '45 -- '44, -- not '45.

Q Did you observe Metsloff's treatment of prisoners at Shelle Hall?

A I didn't see that.

Q You and Feuser are good friends, are you not?

A I only learned to know him in the camp. I didn't know him before that.

Q Will you answer my question, please?

MR. MCKAY: I object to that question, if it please the court, the question is answered.

PRESIDENT: The objection is overruled. Go ahead.

THE WITNESS: I only learned to know Feuser in the work hall in the factory. I was never quartered in the same block in the camp.

CROSS EXAMINATION BY PROSECUTION:

Q I did not ask you that. I asked you if you and Feuser are good friends. Now, please answer the question.

A You can't really call it friendship. It was a comradely spirit which you can have in a camp.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Mr. McKay?

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q When you state that you were group leader, will you explain to the court just what a group leader is?

A As a group leader it was my duty to teach these people the work who were assigned to that outfit.

Q How many men did you have under you as a group leader?

A There were five to six men on one detail with me.

Q Did you wear any kind of insignia designating you as

(Fuchs-Cross)

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group leader.

A None at all.

Calling your attention again to prosecution exhibit 67, how many days after your arrest was that statement made?

A I can't remember exactly when it was written.

Q Can you give us an estimate of how many days you had been under arrest prior to the time you had been asked to make that statement?

A I came here on the th of September.

Q At the time that you were asked to make this statement, were you ever told the reason for making this statement?

PROSECUTION: I object to that question, may it please the court, on the grounds that it is immaterial and irrelevant to the issues in this case.

PRESIDENT: Mr. McKay?

MR. McKAY: If the court please, the prosecution is attempting to impeach this witness as to certain testimony on the basis of this statement, and the court, in my estimation, is entitled to know all of the circumstances under which this statement was made to determine whether there is an inconsistency or whether this man may not have understood the full content of this statement at the time he made it.

PROSECUTION: May it please the court, the man has testified that it was his own statement in his own handwriting and he swore to the truthfulness of it before God the Almighty, and whether or not he was told the import of that statement is utterly immaterial. He made the statement, and as a matter of law he is not entitled to be told anything so far as that is concerned.

MR. McKAY: If it please the court, at the beginning of this statement are contained the words: "-- first duly sworn". Certainly, the investigating officer taking that was in a position

(Fuchs-redirect)

6-8RC-9/19-25

to advise him of th[illegible] and I want to know if he was advised that he was making a statement under oath at the time.

PROSECUTION: He is a [illegible] man. He is presumed to know what an oath is.

PRESIDENT: The objection of the prosecution is sustained. You may have an opportunity to reword your question, Mr. McKay.

The court will adjourn until one-thirty.

End tk 4L6-

(Thereupon at 1200 hours court was adjourned until 1330 hours.)

6-3RC-9/1'-25

to advise him of that and I want to know if he was advised that he was making a statement under oath at the time.

PROSECUTION: He is a grown man. He is presumed to know what an oath is.

PRESIDENT: The objection of the prosecution is sustained. You may have an opportunity to reword your question, Mr. McKay.

The court will adjourn until one-thirty.

And th 246- (Thereupon at 1200 hours court was adjourned until 1330 hours.)

Camp Dachau, Germany
18 September, 1946.

[illegible] ST NOON SESSION

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(Thereupon at 1340 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Perkowitz who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Maj. Oeding, Mr. Wall, Mr. McKay and Dr. Aschner. The first three are absent on business of the accused and the last named is sick. All the accused are present with the exception of Jakubith, Olschewski, Buddensieg, Klebusch and Oswald who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witness as in this case they will please leave the court room.

PRESIDENT: The court will take a short recess in place.

(Thereupon at 1341 hours the court took a recess in place)

(Whereupon Mr. McKay entered and took his place among defense counsel.)

(Thereupon at 1342 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that Mr. McKay has returned to the court room.

The witness is reminded he is still under oath.

JOHANN FUCHS, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PRESIDENT: The defense, proceed.

(discussion off the record)

(Fuchs-)

Q And each time you saw Hauser carrying a hose he was carrying a hose, then, six or seven meters long; is that correct?

A I can't say that every time I saw him with this hose that it was that long; it could have been shorter pieces that he was carrying.

Q On some of these occasions how long was it?

A That all depended on the length of the hose he needed for the work repair; it could have been a meter long or one and a half meters sometimes.

Q Was it just a hose and that's all?

A A hose, yes.

Q Then the court understands that hose didn't have a nozzle on it; is that correct?

A No, it didn't have a nozzle. It was for the air-compressor machines, for the air-hammers.

Q When you saw this hose did it have any connections on it so that it could actually be connected up with an air-compressor machine?

A Yes, the screws were on it and there were small clamps on it which were used to fasten this hose on to the other pieces of hose. There were clamps on both hoses and they overlapped.

Q How close were you to Hauser when you saw him carrying this hose these various times?

A That varied. Sometimes he came very close to me,where I was working at the wing construction,on his way to the smithy where he was carrying the hose

Q Did you ever see him use that hose in another capacity except for use with an air-compressor?

A No, I didn't see him use it for anything. He went down there and took care of these repairs.

PRESIDENT: Any further questions by any member of the court?

(Fuchs-court)

PRESIDENT: The court will take a short recess.

(Whereupon at 1343 hours the court took a recess in place)

(Whereupon Mr. Berkowitz entered and took his place among the prosecution.)

(Whereupon at 1344 hours the court reconvened)

PRESIDENT: The court will come to order.

REDIRECT EXAMINATION (continued)

QUESTIONS BY MR. M'KAY:

Q Mr. Fuchs, calling your attention again to the statement which has been marked Prosecution's Exhibit 67 For Identification I ask you whether at the time you stated the eight months that you—in this statement—whether you referred to the entire time that you worked on Hauser's detail.

PROSECUTION: I object to that, may it please the court, on the ground that it is leading and suggestive.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. M'KAY:

Q Will you explain to the court what you meant, at the time you made this statement, by the statement that you were employed as a group leader and trainer for eight months.

A I meant to say by that that I was working in the Messerschmitt factory a period of eight months and I didn't go into details and say then that I was group leader for only two months.

Q That is all.

PRESIDENT: Recross.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You stated that you saw Hauser carrying a hose around?

A Yes.

Q How long was that hose?

A Around 6 to 7 meters.

Q And each time you saw Hauser carrying a hose he was carrying a hose, then, six or seven meters long; is that correct?

A I can't say that every time I saw him with this hose that it was that long; it could have been shorter pieces that he was carrying.

Q On some of these occasions how long was it?

A That all depended on the length of the hose he needed for the work repair; it could have been a meter long or one and a half meters sometimes.

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A No, I didn't see him use it for anything. He went down there and took care of these repairs.

PRESIDENT: Any further questions by any member of the court?

(Fuchs-court)

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A No, I didn't see him use it for anything. He went down there and took care of these repairs.

PRESIDENT: Any further questions by any member of the court?

(Fuchs-court)

QUESTIONS BY MAJ. LANHAM:

Q I understood you to say that when some of the workers were careless and didn't want to work that Hauser disciplined them. How did he discipline them?

A He didn't punish them. I only could tell from his gestures that he was scolding them.

Q I understood you to say that you lived with Retzlaff in Barracks #6 in February, 1944. Is that right or was that February, 1945?

A No, it was '44.

Q Were you living in the same barracks with Retzlaff in January and February, 1945?

A No.

Q Did you often see Retzlaff in January and February, 1945?

A Yes, I often saw him.

Q Did you know two Polish Jews named Goldberg and Herkuberg during that time?

A I don't know these people by names.

Q Did you ever hear of Retzlaff beating to death two Polish Jews in January or February, 1945?

A No.

Q Do you know whether or not it became common knowledge when somebody beat people to death in the camp?

A Yes, it would become common knowledge.

Q That's all.

QUESTIONS BY LT. COL. SMYLY:

Q Were there many beaten to death in the camp?

A I don't know that anyone was beaten to death in the camp. It often occurred in the quarry, however.

(Fuchs-court)

You stated on your direct testimony you had never seen the accused Hauser or Retzlaff beat anyone. Did you ever see anyone else beat a prisoner there?

A I never saw it in connection with Retzlaff, no.

Q How about Hauser?

A I didn't see him hit anyone, either.

Q Did you see anybody beat a prisoner?

A Yes, there were often beatings going on, especially on the blocks among the prisoners themselves, probably when someone had discovered that someone had robbed him.

Q But you didn't see any capos beat anybody?

A Yes, I saw that, too.

Q Was that very common or very uncommon?

A It occurred once in a while when anyone committed a misdemeanor when the food was being distributed or did some kind of an act that was to be punished, then it would happen.

Q But most of the beating was between prisoners, I mean one prisoner beating another prisoner; is that true?

A Yes.

Q You said something about getting paid while you were working in the Messerschmitt factory. Where did that pay come from, do you know?

A That's more than I know.

Q You have no idea where that money came from?

A I always was of the opinion that the Messerschmitt factory paid us but I can't maintain that with certainty.

Q That was only hearsay; is that true?

A Yes.

Q No further questions.

(Fuchs-court)

A No.

Q You mentioned that you understood that in the quarry men were beaten to death. How did you know that?

A From hearsay. I didn't see it with my own eyes.

Q Did you ever hear that men were beaten to death in the quarry?

A There were capos who were presumably supposed to be dead. There was a certain Rachel who came from Auschwitz who was supposed to be dead. I later found out that he was supposed to have died in Auschwitz.

Q You mentioned about some of these capos in the stone quarry. Whom were you referring to?

A It was the chief capo at that time, he was called "Salat", which means salad, I don't know what his real name was. There were capos out in the quarry, you understand. I never saw them beat anyone, with my own eyes, but the people who came back to the camp told us: "You should be glad you don't have to work in the quarry, people were beaten there."

QUESTIONS BY THE PRESIDENT:

Q Were you ever beaten yourself?

A Yes, right in the beginning as soon as I got in the camp.

Q Who were you beaten by?

A The prisoners beat me.

Q Were you ever beaten by a capo?

A No.

Q Were you ever beaten by an SS man?

A Yes, that happened once in a while but I would always prefer getting a few boxes on the ear than having a report turned in on me.

Q Were you ever beaten by any of the SS men from the desk?

Q This man "Salat" you mentioned, you don't recall his name?

A No.

Q Do you know whether or not he is in the dock at the present time?

A No.

Q Look around there and see.

A No, he is not there.

Q You mentioned that Hauser had gone to the camp authorities and secured an increase in pay for some of the men under him.

A Yes.

Q Do you know whether or not Hauser ever received any monetary assistance, himself, as a result of that transaction?

A That's more than I know.

PRESIDENT: Any further questions by any member of the court? Col. Jackson.

QUESTIONS BY COL. JACKSON:

Q You stated that you went to Flossenburg in July, 1942; is that correct?

A Yes.

Q Why were you arrested?

A The local police authorities had the Gestapo in Darmstadt bring me here.

Q What was the charge?

A They didn't tell me.

Q What kind of a triangle did you wear, what color?

A Green.

Q Where did you live before they took you to Flossenburg?

A In Klagenfurt.

Q Had you been arrested before?

A Yes, before.

Q Did you ever serve in a penal institution?

A I never had a penitentiary term.

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...nd you don't know why you were a green triangle?

A Yes, the prisoners who were to be there for safekeeping had to wear a green triangle.

QUESTIONS BY THE PRESIDENT: (continued)

Q ...ere you ever previously convicted?

A Yes.

Q How many times?

A Four times.

Q Four times. And you say that when you were sent to Flossenburg no explanation was given to you as to the reason for it?

A No, they didn't give us any reason. We were sent to Flossenburg. There we were treated as new arrivals, divided up, received our numbers and a green triangle.

Q You stated you were convicted four times previously. ...ere you given a sentence every time you were convicted?

A Yes.

Q ...here did you serve these various sentences?

A In Klagenfurt.

Q What was Klagenfurt? Was that a penitentiary?

A No. No, that's a district court.

Q How long did you serve in Klagenfurt, all told?

A All told, two and a half years and that includes all my punishments.

Q What were the e previous charges upon which you were convicted?

A According to our law it is customary to punish anyone who poaches, shoots wild game, unlawfully.

Q Was that the basis of the charge against you in each one of these four times you were convicted previously?

A Yes, because of that you get convicted.

Q But was that the reason you were convicted each one of the four times, on account of poaching?

A Yes.

(Fuchs-court)

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PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. BUCHAM:

Q Why were you beaten when you first got to Flossenburg?

A When you first arrive you haven't get a picture of the whole situation and you don't know where everything is in the camp. We didn't know anyone and we had to look after ourselves and do what we could do for ourselves and if we didn't jump fast enough we would get a box in the ear.

Q A box in the ear from whom?

A That happened among prisoners themselves. When you were standing there in the laundry and you didn't move aside you would get a box in the ear because they were afraid you were going to take something away from them and they would prod you, and you always got a few boxes on the ear from the SS man who was in the prisoners' clothing room when you first arrived to get your clothes.

PRESIDENT: Any further questions by any members of the court?

QUESTIONS BY COL. JACKSON: (continued)

Q You stated that if you didn't move fast enough or jump fast enough you got a box on the ear; is that correct?

A Yes.

Q Who gave you that box on the ear?

A Usually it was an SS man.

PRESIDENT: Any further questions by any members of the court? Apparently not. Redirect?

LT. MURRAY: Nothing further, sir.

PRESIDENT: Recross?

PROSECUTION: Yes, sir.

RECROSS EXAMINATION.

QUESTIONS BY THE PROSECUTION:

Q Did I understand you to say that no man in that prisoners'

dock ever beat you?

A Nobody who is sitting here ever beat me.

Q You looked over everybody in that dock?

A Yes.

Q Do you want further time to look it over?

A Yes. One is there who beat me, yes. One.

Q Who is it?

MR. McKAY: That is objected to as going beyond the scope of direct examination. It was brought out by a member of the court and it is not within the province of the prosecuter to go into it at this time as he is limited by the scope of the direct examination.

PROSECUTION: May it please the court, the sole function of asking counsel, after the court has finished its examination, whether there are any further questions by the prosecution or defense is to permit either side to clear up these matters brought out by the court. The question is proper.

PRESIDENT: Objection overruled.

QUESTIONS BY THE PROSECUTION:

Q Who is it?

A The top-sergeant Schreiber.

PROSECUTION: Let the record show, may it please the court, that the witness indicated the accused wearing #41, being the hauptscharfuehrer Schreiber.

MR. McKAY: That is objected to for the reason there is no showing that he has indicated that particular man yet.

PROSECUTION: I don't know where counsel was when the witness pointed to him and he rose, may it please the court.

MR. McKAY: That is not a proper method of identification, if Your Honor please.

PRESIDENT: Objection overruled.

QUESTIONS BY THE PROSECUTION:

Q What did he do to you? When I say "he" I mean Schreiber.

A He beat me, he gave me a few bones on the ear.

PRESIDENT: Just a minute.

(discussion off the record)

PRESIDENT: Proceed.

QUESTIONS BY THE PROSECUTION:

Q What was the occasion of his giving you a box on the ear?

A I was coming out of the kitchen; I had a few potatoes with me and he caught me with them. But as I said before I would rather get a few bones on the ear than have a report over me go to the headquarters and be sent to the "bock", wooden horse, where I would get 25 wooden blows with a stick.

Q Schreiber did that?

A Yes.

Q Anybody else ever beat you or see to it that you received any beatings from other persons in the camp?

A Yes.

Q Who are they?

A The block leader Blemberg.

Q What did he do?

A He saw to it that I got 25 blows in the rear in the clerk's office.

MR. M'KAY: I object to this line of questioning because it exceeds the scope of the charges here. There is nothing in the charges to show that the beating of a German is an offense under this specification. It therefore exceeds the scope of any issue before this court.

(Fuchs-recross)

PROSECUTION: This man said that he is an Austrian, may it please the court.

PRESIDENT: The objection of the defense counsel is sustained. The court will be closed.

(whereupon at 1415 hours the court was closed)

(whereupon at 1430 hours the court was opened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Minter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Maj. Oeding and Mr. Hall who are absent on business of the accused and Dr. Tacker who is sick. All the accused are present with the exception of Jakubith, Olschewski, Buddensieg, Riebusch and Oswalt who are sick in the hospital and whose interests are being taken care of by their counsel. The witness is reminded that he is still under oath.

JOHANN FUCHS, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: The objection of the defense counsel Mr. McKay is sustained. The court further directs that any testimony of this particular witness referring to beatings that this particular witness received at the hands of either Schreiber, #41, or Blomberg, #4, will be stricken from the record.

PROSECUTION: Now, may it please the court, this ruling that has just been made has been made without having given counsel an opportunity to be heard. It is possible to argue the entire

objection that was made by the defense counsel.

PRESIDENT: Mr. Prosecuter, the court has already made a decision. There will be no further argument on that.

PROSECUTION: I am satisifed the court does not wish to be arbitrary. The ruling that has just been made is extremely sweeping in character and I do not know at this time whether the court is aware of the full import of the nature of the ruling that has just been made, and in order to determine the future course of conduct of counsel the prosecution respectfully asks the court whether or not the exclusion of the testimony was made on the basis that it was conduct which was performed against a German national.

PRESIDENT: Mr. Prosecuter, this ruling was given full and due consideration in a closed session of the court. In making this ruling the court fully considered the particulars and the charge in this particular case.

PROSECUTION: In that connection, may it please the court, I would like to point out that the court is in error, respectfully, in connection with that ruling as an Austrian is not a German national and that matter has been taken care of in two previous trials where the same question was raised.

PRESIDENT: At the same time, Mr. Prosecuter, the court does not feel that an Austrian is an Allied national. There will be no further argument on the matter. The court has made its decision.

PROSECUTION: In view of the court's ruling that there will be no further argument on the matter counsel declines to further interrogate the witness.

PRESIDENT: Redirect?

MR. M'KAY: Nothing further, sir.

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PRESIDENT: Any further questions by members of the court? Apparently not. The witness will be excused.

(Thereupon the witness was excused and left the court room)

MR. M'KAY: The next witness is being called on behalf of the accused Ji37. Call Edward Lessmann.

PROSECUTION: May it please the court, may the record show that counsel for the prosecution wished to make a further argument in opposition to the ruling of the court that an Austrian does not come within the purview of the particulars of this charge and does not come within the provisions of the clause which says: "other non-German nationals', and that the counsel further offered to show the court in two other cases where that question had been raised and passed upon.

PRESIDENT: Mr. Prosecuter, the court is not interested in the Dachau case or any other case as far as that's concerned.

EDMUND NISSMANN, called as a witness by the defense, being first duly sworn testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. M'KAY:

Q Will you state your name to the court.

A Edmund Nissmann.

Q Mr. Nissmann, you will have to speak up loud enough so that everybody in the court room can hear you.

A I understand.

Q Mr. Issmann, where are you now residing?

A In Cologne.

Q Where are you at present living?

A In Cologne.

At the present time where are you being retained?

A In Dachau, in the special camp.

Q Are you being held by the American authorities?

A Yes.

MR. M'KAY: If it please the court, I have advised this man, prior to this time, of his rights and I would request the court that he be advised of his rights again.

PRESIDENT: You are advised that if you are asked any questions that might tend to incriminate you you have a right to ask the court for permission to refrain from answering same.

THE WITNESS: I understand.

PRESIDENT: You fully understand your rights?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. M'KAY:

Q Mr. Wiesmann, were you a prisoner in Flossenburg Concentration Camp?

A Yes.

Q When did you become a prisoner in Flossenburg Concentration Camp?

A On the 5th of April, 1940.

Q How long did you remain as a prisoner in Flossenburg Concentration Camp?

A Until the 16th of April, 1945.

Q During the time that you were a prisoner in Flossenburg Concentration Camp did you ever live in Block 6?

A Yes.

Q When did you first go to live in Block 6?

A Middle of January, 1944.

Q How long did you continue to reside in Block 6?

A Till the beginning of March.

Q Of what year?

A '44.

Q During that time did you come in contact with a fellow

prisoner by the name of Retzlaff?

A Yes.

What duties, if any, did Retzlaff have in Block 6 at the time you knew him?

A He didn't have any duties in Block 6.

Q Did you have an opportunity to observe Retzlaff's conduct towards his fellow prisoners during the time you lived with him in Block 6?

A Yes.

Q Will you explain to the court what you saw with regard to Retzlaff's treatment of his fellow prisoners during the time you lived with him in Block 6.

A In regard to the other prisoners Retzlaff was a very decent comrade.

Q What do you mean when you say "a very decent comrade"?

A That he helped every prisoner.

Q Will you describe it further as to your observations of his conduct towards other prisoners?

A Retzlaff helped the foreign prisoners write their letters and whenever he received a package he gave it practically all away.

What do you mean when you say "gave it practically all away"?

A He distributed the package to the other prisoners.

Q By what name was Retzlaff known when you lived with him in Block 6?

A We called him "Father Fridolin".

Q Will you explain to the court why you called him Father Fridolin.

A They called him Father Fridolin because he always sat in the corner, minded his own business, and always had a book in his hand.

Do you know what reputation Retzlaff had among the fellow prisoners at the time you lived with him in Block 6?

A Yes.

(Isaacson-direct)

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(Reporter's note: Dr. Engelbern now present among counsel for the defense.)

Q What was that reputation?

A He was known as decent and peaceful --quiet.

Q Do you think you could recognize Retzlaff if you saw him again?

A Yes.

Q Will you look at the men who are seated behind me in the dock and see if you can find the man you knew of as Retzlaff.

A The third from the left in the next to the last row.

Q Let the record show that the witness has identified the accused wearing #37 as Retzlaff.

During the time you lived with Retzlaff in Block 6 did you observe him having conversations with fellow prisoners?

A Yes.

Q What were the nationalities of these prisoners?

A Everything....Poles, Russians, Czechs.

MR. M'KAY: You may cross-examine.

CROSS EXAMINATION.

QUESTIONS BY THE PROSECUTION:

Q Are you a good friend of Retzlaff's?

A No.

Q Did you know Retzlaff in Schaller Hall?

A No.

Q What color triangle did you wear?

A Red with black stripe.

Q What did that mean?

MR. M'KAY: I object to the question for it is an attempt to submit this witness to indecency.

PRESIDENT: Objection overruled.

THE WITNESS: I would rather not answer the question.

(Riesmann-cross)

QUESTIONS BY THE PROSECUTION:

Q Why not?

MR. M'KAY: Just a minute. That was a request directed to the court and I object to the prosecution interfering until the court has ruled.

PRESIDENT: The court would like to have a definite statement from the witness as to the basis for his request.

THE WITNESS: Because of publicity.

PRESIDENT: Just speak right up.

THE WITNESS: Because of public knowledge--publicity.

PRESIDENT: Your request, then, is not based upon the possibility of incrimination as far as future trials are concerned?

THE WITNESS: No.

PRESIDENT: Objection overruled.

QUESTIONS BY THE PROSECUTION:

Q Would it embarrass you to answer that question?

A Yes.

Q No further questions.

PRESIDENT: Redirect.

MR. M'KAY: Nothing further.

PRESIDENT: Any questions by any members of the court? Apparently not. The court understands that the defense is finished with this particular witness? The witness will be excused.

(whereupon the witness was excused and left the court room)

MR. M'KAY: The next witness is being called on behalf of the accused #27. Will you call Adolf Kuefner.

Mr. President, this man has been a prosecution witness before and he has been sworn.

PRESIDENT: The court understands that you previously were a prosecution witness. That is correct, is it not?

WITNESS KUEFNER: Yes.

PRESIDENT: The court desires at this particular time to caution you that you are still under oath.

WITNESS KUEFNER: Yes, sir.

PRESIDENT: You fully understand?

WITNESS KUEFNER: Yes, sir.

ADOLF KUEFNER, formerly a witness for the prosecution was called as a witness by the defense and being reminded that he was still under oath testified through an interpreter as follows:

DIRECT EXAMINATION.

QUESTIONS BY DR. McKAY:

Q Will you state your name.

A Kuefner, Adolf.

Q Are you the same Adolf Kuefner who testified for the prosecution in this case?

A Yes.

Q Mr. Kuefner, will you please spell your name?

A K-u-e-f-n-e-r.

Q Your forename.

A A-d-o-l-f.

Q Mr. Kuefner, I believe you stated before you were a prisoner in Flossenburg Concentration Camp?

A Yes.

Q During the time you were in Flossenburg Concentration Camp did you ever live in Block 5?

A Yes.

Q When did you first move into Block 5 to live?

A In the second half of the year 1944.

Q How long did you remain in Block 5?

A Until the camp was evacuated.

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During the time that you lived in Block 5 did you ever have -- did you ever become acquainted with another prisoner by the name of Raymond Maurer?

A Yes.

Q What duties, if any, did Raymond Maurer have in Block 5 at the time you knew him?

A When I arrived in Block 5, at that time the blockeldest had appointed Maurer to be in charge of taking care that the block was kept clean and that order was preserved. He did that through the block clerk.

Q In which wing of Block 5 did you live?

A Wing B.

Q In which wing did Maurer live?

A He also lived in Wing B.

Q Can you give the court any idea of the number of men living with you and Maurer in B wing at the time you were living in Block 5?

A That kept changing; the total strength was between three and six hundred men in Wing B.

Q During the time that you were with Maurer in Wing B of Block 5 did you have an opportunity to observe how he treated fellow prisoners?

A Yes.

Q What were the nationalities of the prisoners who lived in Wing B of Block 5 with you and Maurer?

A They were Germans, Poles, Italians, Frenchmen, Russians, Belgians.

Q How many German prisoners lived in that wing?

A I can't say. I can't tell you how many more in that particular wing but in the whole block 30 to 50 Germans were there.

Will you describe to the court how these prisoners had to sleep while they were living with you in Wing B in Block 5?

When I first got there four to six prisoners, on an average, had to sleep in two beds which stood next to each other, and two or three months before Christmas this number was raised to ten or twelve prisoners.

Q Will you explain to the court what effect this condition had on the discipline of the prisoners in the wing during that time.

A That was Christmas, '44.

The lack of discipline in this block was all known because there was no room, not enough room, and the people pushed each other around; neither in the dormitory nor in the lounge was there enough room for you to move around, there was a constant turmoil.

whenever food was given out everyone has to fall out in front of the block in order to avoid anyone getting two rations and after the food was given out each one went into the block alone.

Q Will you describe to the court just what Maurer had to do with distributing the food.

A The food was distributed after roll call and the food was given out according to a number chart which they looked at. Food was given out, whatever it was: bread and portions of food.

THE MARSHAL: The court will take a half an hour recess.

(Thereupon at 1500 hours the court recessed).

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all of the personnel of the defense are present except Major Oeding who is absent on business of the accused and Dr. Wacker who is sick, all of the accused are present with the exception of Olschowski, Buddensieg, and Oswalt who are sick in the hospital and Pens who has gone to the dentist. The interests of those named accused are being taken care of by their counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of direct examination by Mr. McKay.

ADOLF KUEFNER, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q Prior to the recess, Mr. Kuefner, you were describing the distribution of food in block 5. Had you finished your description of that?

A Yes.

Q Will you explain to the court just what part Maurer had to do with this distribution of food?

A The food was handed out according to a chart and while the food was handed out the number of the respective prisoner who received his bread was taken off the chart.

(Kuefner-Direct)

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Q Who did this?

A Maurer most of the time. Sometimes others.

Q You stated that Maurer had charge of keeping order in the barracks. Will you describe just what you observed Maurer do with regard to his duties of keeping orde. in the barracks?

A Firstly that everyone had his blankets in the sleeping quarters and his definite place to sleep, that no one would jump into bed with his clothes on and his shoes on, that everyone went to the delousing, to check in the day room during the roll call, that everyone had fallen out, and that everyone went off to his respective work detail and fell in the right formation to march off to his work detail, and for the other part to keep general order.

Q During the time that you observed Maurer performing these duties did you actually observe his treatment of fellow prisoners?

A Yes.

Q Will you describe for the court what you saw as regards Maurer's treatment of the prisoners in the performance of his duties in block 5?

A I know of one case which occurred in the day room when a prisoner who had received his food during food distribution had taken the jacket from another prisoner, put it on, and went through the food line a second time. He beat him up there. I saw that. By this prisoner taking a double ration of bread Maurer lost out on his general ration and he had to account for it.

Q Will you describe that beating to the court?

A In this case he received a few slaps with the open hand in his face and I believe in this case also this particular prisoner had to stand on a chair for two days. In the evening he did not receive his food like the others. He got his food when he was ready to go to bed.

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Q Did you ever see any other instances of this kind with regard to Maurer while you were in block 5?

A On Sundays the food was handed out mostly in front of the block because day and night shifts were there together and after the food distribution, that is to say after everyone had received t is food, there was some surplus food left and when this surplus food was to be distributed the prisoners mostly raided the pot like wild men. And I observed one case, it was on a Sunday also, when he took half a ladle full of soup and threw it in the faces of - prisoners who were pushing him around.

Q Will you explain to the court what if any nickname Maurer had among the prisoners in block 5 at the time you lived with him?

A I know of no nickname. I only knew that he was called Raymond.

Q Do you know what Maurer's reputation was among the prisoners of block 5 during the time that you lived with him in that block ?

A His reputation was of the kind that every prisoner knew that he could not do anything out of order because he would be reproached by Maurer in case of any disorderly conduct. On the contrary it must be said that all new arrivals preferred to go to wing B because in wing A there was a man by the name of Ulbricht Ernst who was the terror of that wing, the terror of block 5.

Q During the time that you lived in block 5 did you have any particular duties yourself in that block?

A I helped the clerk in case of any new arrivals or transfers.

Q In your capacity assisting the block clerk did you know of people being sent to the hospital from the block?

A Yes. In case someone would be sent to the hospital I knew about it and there were some people who were sent to the hospital

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beeause the strength report of the block would be changed in such cases.

Q Will you explain to the court what the reasons were those people were sent to the hospital?

A That varied. Sometimes people remained in bed and no cause of disease or sickness could be found. In other cases some would be sent back from work with injuries or else some would be beaten so severely that they had to be brought to the hospital.

Q Those people who were beaten, do you know who they were beaten by?

A In several cases I know it but I can't give you any names any more.

Q During that time that you were the assistant block clerk was Maurer's name ever associated with any of those beatings?

A It is not known to me that anyone was taken to the hospital because of his beatings.

Q Do you know what detail Maurer worked on during the time that you lived with him in block 5?

A He worked in the transport of the detail 2004 of the stone quarry. He was the capo of the wood and coal court.

Q Did you yourself work in the Messerschmidt factory during that time?

A Yes.

Q During that time did you observe Maurer's detail at work?

A When I passed by there I saw the wood court yard detail and I also saw the transport detail which was attached thereto and which was under the supervision of capo Hillmar Tillmeier. I saw that because they were passing my orderly room every day.

Q Will you explain to the court just what connection the transport detail and the coal and wood detail had?

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A It was the general policy to combine small details and activate large details. The detail coal and wood court yard and the transport detail 2004 were combined.

Q Was there any capo who was superior to the capo of the transport detail and of the wood and coal detail?

A Maurer was the capo for the wood and coal court yard and capo for the whole detail when they marched back to camp. During work hours the already mentioned man, Tillmeier, was responsible for the transport detail.

Q During the time that you worked in the Messerschmitt factory did you ever have an opportunity to see how Maurer treated the prisoners who worked on his coal and wood detail?

A I did not have much occasion to observe Maurer but he came to me quite often because I had the compensation lists for the prisoners.

Q Do you know how the prisoners were detailed to the wood and coal detail under Maurer.

A They were sent to this detail by the orderly room.

Q Going back to Maurer when he was in block 5, what if any duties did he have with regard to the roll call itself?

A No official duties but it was his duty to see to it that everyone fell out for roll call and no one would dodge it or remain in the barracks.

Q You stated that part of Maurer's detail was to keep order. Do you recall of any incidents arising in the block with regard to disorders among prisoners in which Maurer was involved?

A There were many cases.

Q Will you describe to the court some of those cases?

A I remember one case during sleeping hours someone broke

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into the desk of the clerk, Georg Schmidt, his name was at that time, and stole about 200 cigarettes as well as a brief case and Schmidt beat up prisoners whom he suspected but whom he had not proven guilty. They were beaten so severely, two of them, that they had to be sent to the hospital. In this case a report was made to the orderly room and orders came back from there that no games would be allowed any more in this block because evidently these stolen things had been the prize of gamblings and from then on all gamblings were prohibited in the block. Another case was that a lot of blankets were missing after an investigation had been conducted after some new blankets had been brought to the block. A check was made whereby all blankets had to be handed in and none of the blankets was to be missing and they found out that many prisoners had four to five blankets locked into their cupboards. And when Maurer and I reproached some of them some of them became fresh.

Q What do you mean "became fresh"?

A They became aggressive, whereupon they received several slaps in the face with the open hand. I think one of them was a Czech. I don't remember his name.

Q During the time that you lived with Maurer in block 5 did you observe him have anything to do with the packages which prisoners received?

A Yes. He was in charge of the block's closet.

Q Did you explain just how these packages were kept by Maurer for the prisoners?

A The locker was locked, it was under lock and key, and in the morning before they marched off to work or in the evening after chow packages were handed out by him as requested by the prisoners.

Q During the time that you were the assistant block clerk

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did he perform these duties?

A During all the time that I was there with the exception of a short interruption of a few days.

Q Will you explain to the court whether you heard any complaints among the prisoners with regard to their packages?

A I didn't hear any complaints about this locker, but I heard complaints about a locker which was in the sleeping room right behind the door. It was broken into twice but Maurer was not connected in any way with it.

Q Do you think you could recognise Maurer if you saw him again?

A Yes.

Q Will you look at the prisoners sitting behind me in the sock and see if you can recognise the man you knew of as Maurer?

A (Indicating) Here in the third row, the second one, No. 27.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 27 as Maurer.

You may cross-examine.

PRESIDENT: Prosecution?

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q How long did Maurer keep his position in block 5?

A When I arrived at the block he already had it. I don't know how long he had it prior to that.

Q And did he retain it the whole time while you were there?

A During the time that I was there, yes, but with a few days interruption.

Q And what period of time were you there again, please?

A From the second part of '44 until I left the camp.

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Q When you say the second part of '44 do you mean by that the fall or winter of '44?

A It must have been around fall. I don't know exactly any more. Several months before Christmas it was.

Q Is it a fact that Maurer carried a gummi while he was there in the block?

A He did not carry one but there was one in the block. There were several water hose and sometimes they were taken away by other prisoners and disappeared.

Q Did you ever see Maurer with one of these gummis?

A Yes.

Q Did you ever see him with a broomstick in his hand?

A That I can't say.

Q I believe you stated it was one of Maurer's duties to get the prisoners out to roll call, is that correct?

A Yes.

Q And was it his duty to get these people out to the roll call whether they were sick or where?

A The sick people insofar as they could not walk did not have to fall out. However, they had to sit down in the day room because the SS man in charge wanted to see the sick people and examine them in the day room and they were never brought out of the block either. But that was only as of November or December that the sick didn't have to fall out.

Q And during that time at formations would you remain in the block or would you go out and assume your place in the formation?

A We all had to fall out and stand outside.

Q So you wouldn't know whether or not Maurer beat an old man who was unable to get up for roll call or not, would you?

A When I was standing outside Maurer was also outside as a

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rule. A few times he came after me. However, I do not know what happened those few times that he came out after me.

Q Now you stated that Maurer distributed the food, is that correct?

A Yes.

Q Is it a fact that at the time he distributed the food he would cause the prisoners to pass by rapidly and he would throw the bread at them?

A I don't know that and I didn't see that but the distribution had to be done quite rapidly because if you want to feed 600 prisoners it takes you an hour at least.

Q Well during that time is it not a fact that he tossed the bread at the prisoners as they came by?

A I never saw that.

Q Now you stated that on some occasions Maurer held back some of the food, is that correct?

A Yes, that is also correct.

Q And that food was there for the benefit of all the prisoners was it not?

A No, when they were prisoners who had to stand on a chair or something like that they received their food when it was time in the evening to go to bed.

Q What is this standing on a chair that you mention?

A In some blocks it was this way, in other blocks the other way. There were prisoners who constantly caused trouble. Some of them could be taught by hitting them a few times with the open hand in the face. Others could be taught by putting them in on the chair for a few evenings and letting them stand there.

Q What do you mean by putting them on a chair and letting them stand there? Will you describe that to the court please?

A He had to climb on the chair which was in the center of the day room near the stove and had to stand on top of it until the whistle was sounded at nine o'clock in the evening for sleeping hours.

Q And what happened to him if he fell off the chair?

A As long as I have been there I never saw anyone fall off.

Q Have you ever heard what happened to a man who was not able to stand on the chair?

A Such cases never happened with us.

Q Did they have more than one man standing on the chair?

A No, only one man.

Q Now you stated that Maurer reproached prisoners, is that correct?

A Yes.

Q And is it a fact that when he reproached prisoners he beat them?

A In several cases, yes.

Q And is it not a fact that when he reproached them by beating them he also beat them with a gummi?

A In some cases, yes.

Q And is it also a fact that when he reproached prisoners he beat them with sticks?

A I remember one case — I never saw a case in the day room but I remember one case in the sleeping room. Shortly before that we had had roll call. We had to fall out again and when we came in we saw that one prisoner — and during this I was present myself — was already in bed and that he had relieved himself into this bed and so Maurer hit him once with his stick because he wouldn't listen to Maurer's yells.

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Q The prisoner was ill was he not?

A No. He had been in the previous formation but about 15 minutes after the first formation the whistle was sounded all of a sudden for another roll call. Everyone fell out and one man was missing out there and after he had been requested several times to fall out and he was sleeping way on top he received one stroke with a stick because he wouldn't listen and wouldn't fall out.

Q Was t at the same man you saw relieve himself in bed?

Mr. McKAY: That's objected to as going beyond the scope of direct examination. There was no such testimony from this witness.

PROSECUTION: May it please the court, I'd like to go back and check the previous questions. I believe it was the second one before that, if you please.

(Whereupon the reporter did as requested.)

PRESIDENT: Objection overruled.

Q How much opportunity did you have to see Maurer when he was at work?

A When I had to go to a different section or division I had to pass by the wood or coal storage place several times.

Q Well, did you ever see Maurer working in the quarry?

A Not in the stone quarry proper.

Q Did you ever see him working in the quarry yard?

A Not either. I've seen him in the wood and coal yard.

Q Will you give the court some idea as to the frequency that you saw him there?

A Sometimes two or three times daily. He had a wooden shack in the wood yard in which he was sitting most of the time. In the winter time he was sitting near the fire in there. In the summer

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time he was just sitting in there.

PROSECUTION: No further questions.

PRESIDENT: Redirect

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Describe these incidents about the man standing on the chair. Did that occur at any other time other than in the evening?

A Only in the evening.

PRESIDENT: Recross?

RECROSS EXAMINATION: No further questions, sir.

PRESIDENT: Questions by members of the court? Apparently not. The court understands the defense is finished with this witness.

MR. McKAY: The witness will be recalled later for two of the other accused but we are completed with him at the present time.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and withdrew.)

PRESIDENT: Court will take a short recess.

(Thereupon the court recessed in place.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business for the prosecution, all of the personnel of the defense are present with the exception of Col. Wilson and Major Gedin; who are absent on business of the

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accused and Dr. Wecker who is ill. All of the accused are present with the exception of Olschewski, Buddensieg, and Oswalt who are sick in the hospital and Penz who has gone to the dentist. Let the record show that Penz is coming in the court room now. The interests of Olschewski, Buddensieg and Oswalt are being taken care of by counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Defense?

MR. McKAY: The next witness is being called on behalf of one of the accused who is being represented by Col. Wilson.

DEFENSE COUNSEL: The defense calls as its next witness Dr. Karl Wittig on behalf of the accused Mohr, No. 28. May it please the court, this witness is called a little bit out of the logical sequence in the presentation of this defense so as to help occupy the time until Dr. Wecker gets back.

DR. KARL WITTIG, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q You will please state your name?

A Karl Wittig.

Q And your present residence?

A Frankfurt am/Main.

Q What is your nationality, please?

A German.

Q Were you ever a prisoner in Flossenburg?

A Yes.

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Q Will you please tell briefly why you were a prisoner?

A In Flossenburg or in general?

Q Well, in general briefly and then leave out the Flossenburg.

A 1933 I was taken into protective custody for the first time. In 1938 for the second time I was arrested by order of the Reichsfuehrer of the SS because I had been working since 1930 and until a long time after Hitler had come to power in the German press and the foreign press against the national socialism because I had connections to foreign governments and because I was the guilty man in Hitler's opinion for the conflict he had had with General Ludendorff. As of September 1939 by order of Reichsfuehrer Himmler I was in solitary confinement for life. I arrived in Flossenburg on February 5, 1942 and remained there until September 1944. I was then transferred to the Concentration Camp Mauthausen.

Q What was the classification of Flossenburg as a concentration camp?

MR. BERKOWITZ: If it please the court, that calls for a conclusion upon the part of the witness. The witness is not qualified to know the classification of the camp. The question is objected to unless proper ground-work is laid for the question.

DEFENSE COUNSEL: I'll withdraw the question, if the court please.

Q Could you make a comparison of the general treatment of prisoners at Flossenburg as compared with Mauthausen?

A Yes.

Q Will you please do so?

A Flossenburg was stricter compared with Sachsenhausen where I had been first and Mauthausen was much stricter yet than Flossenburg.

Q Did you know of any prisoners being put to death in Flossenburg?

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A Yes.

Q Can you describe the basis on which these prisoners were put to death?

MR. BERKOWITZ: If it please the court, that's objected to unless the proper ground-work is laid for the question.

DEFENSE COUNSEL: I'll withdraw the question, if the court please.

Q Were you aware of executions in Flossenburg?

A Yes.

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed in place.)

DEFENSE COUNSEL: Read the last question.

(Whereupon the reporter read the last question.)

DEFENSE COUNSEL: If the court please, I withdraw the question.

Q Where were you kept in Flossenburg?

A I was always held in the bunker in Flossenburg, the so-called arrest building.

Q Do you know of any executions that took place in the immediate vicinity of that building?

A Executions were carried out in the court yard of this building.

Q What is the extent of your knowledge of these executions?

A There were two kinds of executions in Flossenburg, executions by musketry and executions by hanging.

Q Did you see any of these personally?

A I can't give a direct answer to this question. I only saw one execution personally but I was so well informed about all the other executions which took place in the bunker that I might as well have seen them.

Ta 4A8
9-18
DMC
16

Q How were you informed about those that you did not see personally?

A Because of the preparations and after that I saw the corpses.

Q Will you please describe the executions you saw personally?

A The execution I saw was the aftermath of an execution. I was allowed to go into the court yard and I saw 17 Russians on the ground who had been executed by shots through the neck and I determined there that one of the executed people was still alive. Then I called the accused Wolf and he in my presence fired two more shots at this man and thereafter the man was dead.

Q Do you know whether this execution was preceded by any preparatory steps?

A Yes.

Q What were they?

A I personally participated in the preparations.

Q Please describe them.

A As of June 1944, the time that I was allowed to work in the bunker, I had to pick the parties in question up from their cells. They were taken to the bathroom by me. There they had to strip. Their hands were bound with wire then by the man in charge of the arrest building or another man. Then they had to wait in the bathroom until all persons who were connected with the execution were present. That was the camp commander Koegel, the adjutant Baumgartner, the roll call leader Kuebler, the doctor, obersturmbannfuehrer Dr. Schnabel (Lieutenant Colonel), and then the man in charge of the arrest building who was on duty that respective day. Those people waited in the court yard in the so-called execution corner. The man in charge

Tm 448
7-18
HHC
17

of the arrest building on duty had a small caliber rifle. Upon the complete assembly of all these persons in the court yard the prisoners were led out into the court yard and one after the other killed by shots through their necks or also hanging.

Q Was any order of execution read?

MR. BROWN: If it please the court, that's objected to as leading.

PRESIDENT: Objection sustained.

(Discussion off record.)

QUESTIONS BY DEFENSE COUNSEL (Continuing):

Q Were there any further formalities in connection with these executions?

A Yes.

Q Will you describe them?

A Shortly before they were led into the court yard individually they were informed in the bathroom while waiting by the roll call leader that they were to be executed immediately. In case of foreigners interpreters were used.

Q Were there any further formalities in the court yard?

A No.

Q Did you ever see any official papers in connection with these executions?

MR. BROWN: Objected to as leading.

PRESIDENT: Objection sustained.

Q What did the official interpreter say, if you remember?

A What he said had little of a formal nature. He just said, "You'll be hanged now", or, "You'll be shot", that's all. May I add something?

Q Yes.

Ta 44B
9-18
DMB
X 18

A He was asked for his name and date of birth.

Q Did you ever see any documents in connection with these executions?

MR. BERKOWITZ: If it please the court, objected to as leading and suggestive.

PRESIDENT: Objection sustained.

Q Upon whose authority were these executions made, do you know?

MR. BERKOWITZ: If it please the court, that's objected to; first, on the ground that it's leading and suggestive; secondly, it calls for a conclusion on the part of the witness without any proper foundation therefor being laid.

PRESIDENT: Objection sustained.

Q What duties did Koegel perform in these executions?

PRESIDENT: Just a minute, were you referring to Koegel or Ehrlich?

DEFENSE COUNSEL: The camp commandant. I think it was Koegel.

Q What duties did the camp commandant perform?

MR. BERKOWITZ: If it please the court, that's objected to as calling for a conclusion on the part of the witness. The witness doesn't know whether they were duties or not. The witness can testify as to what he saw.

DEFENSE COUNSEL: All right, I'll withdraw the question.

Q What did you observe the camp commandant do at these executions?

A I can't state what he did during the executions because I was not present during the executions.

Ta 448
9-18
BMC
19

Q What did you see the adjutant Baumgartner do during the executions?

A I can only give the same answer to this question as I gave to the preceding question.

Q Who made the remarks that the interpreter translated?

A The roll call leader.

Q What were those remarks?

MR. BERKOWITZ: Objected to as repetition.

PRESIDENT: Objection sustained.

Q While you were in the arrest bunker what were your duties there?

A As of October 1943 I was only let out a few hours and had to help to distribute the food and clean up. As of June '44 I was out all the time. I had the duties of an orderly. I took the place of the former orderly Budden. I had to clean up and hand out the food, etc.

Q Did you do any clerical work?

A No.

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Thereupon the court at 1700 hours adjourned until 0900 hours, 19 September 1946.)

CA/GI 13 — Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Case No.

*~~Summary~~
*~~Intermediate Military Court~~.
*General

Place DACHAU, GERMANY

Date 19 September 1946
0905 - 1700 hours

~~Members of Court~~:

WITNESSES:

MUELLER, PAUL

HAUSER, JOSEF

WITTIG, KARL

Accused FRIEDRICH BECKER ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning 194
- Fine
  - Amount .....
  - To be paid before 194
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....

.....

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES VERSUS FRIEDRICH BECKER, et al.

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

19 Sept. 1946 0905 hours to 1700 hours PAGES 3703-3756 INC.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
MUELLER, PAUL	3715	3720	3721		3721
HAUSER, JOSEF	3722				
[illegible]	3714-[illegible]	3714-[illegible]	3714-[illegible]	3714-[illegible]	3714-[illegible]

EXHIBITS

Number	Description	For Ident.	In Evidence
6	Diagram	3729	

CAMP DACHAU, GERMANY

19 September 1946.

MORNING SESSION

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, and Dr. Wacker, who is ill; all of the accused are present with the exception of Hisbusch, Jakubith, Olschewski, Oswalt, and Buddensieg, who are ill in the hospital. The interests of these accused are being taken care of by their counsel. The Court reporter and the interpreter are present. The witness is reminded he is still under oath and if there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: Col. Wilson.

DEFENSE COUNSEL: May it please the court, at this time I would like to introduce to the court Mr. Charles E. O'Connor, a United States Civilian attorney who has been assigned by the Chief of Counsel of the War Crimes Group to assist the defense. Mr. O'Connor specifically will assist me in the defense of the eight accused whose cases I have been handling personally. Does the Court wish the list?

PRESIDENT: The Court would appreciate a typewritten list a little bit later on. I think you should make the announcement at the present time also, so that there is no question about the typewritten list.

DEFENSE COUNSEL: The names of those accused are: Blemberg, No. 4; Haubold, No. 17; Losch, No. 24; Mohr, No. 28; Schreiber, No. 41; Schwanner, No. 42; Schubert, No. 44; and Skierka, No. 46.

DR. KARL WITTIG, called as a witness for the Defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY DEFENSE COUNSEL:

Q Dr. Wittig, I believe you told the court yesterday that your duties in the arrest bunker included cleaning up certain offices, or an office. Is that correct?

A Yes.

Q Would you please describe to the court anything you saw in the course of those duties?

A In the mornings when I was working there in the offices and nobody was present from the administration of the arrest building I, of course, read everything that I could that was written down.

Q What was your reason for reading what you could?

A First of all, to be informed about what was going on at all; and, secondly, to try to find out what eventually would happen to me.

Q Well, now, will you please describe to the court any papers which you read and which struck your attention particularly?

A First of all I read the official camp punishment orders of the camp commander and I also read orders for executions.

Q Do you recall the appearance of those orders for executions?

A Yes, I can remember exactly what they looked like in detail, because I was always checking to see whether my name would be on one of these execution orders.

Q Will you please describe them in detail for the court?

A These execution orders consisted of the standard bright red papers, published papers, printed papers, which came from the Security Orders in Berlin. They were mimeographed and the title

read: "In the Name of the People". The personal data of the party in question were typed and at the bottom there would be a short basis for the verdict, also typed. They were signed by one of the following three: Himmler, Kaltenbrunner, or Mullen.

Q Were these orders, so far as you know, read at the executions which you saw?

A They were the same reports which the report leader Knobler had in his hands at the executions. They were not always read aloud. For instance, when a Russian or a Pole was about to be executed they were not read, merely the name was called out and the date of birth was read to check and see whether the personal data was correct. And the roll call leader Knobler or the adjutant Baumgartner would merely say, "You are going to be hanged", or whatever he wanted to say.

Q Did the report leader have these papers in his hands at such a time?

A Yes, he always had these orders in his hands.

Q Do you know of any circumstances when these orders were read out in full?

A I only know of two incidents where this took place.

Q And what were they?

A It was in the summer of 1944 when two of the fifteen interned British officers in the bunkers were about to be executed. These officers didn't hear the orders read in the bath, as was customary, but they were brought directly out of their cell to the office and, if I remember correctly, it was Baumgartner who read them their execution orders in full.

Q May it please the court, I have just had a note passed down from one of the prisoners, questioning the translation a moment ago. To clear it up I would like to reask a question already asked.

PRESIDENT: Proceed.

Q I believe you said that these execution orders came from

an office in Berlin. Would you please repeat what office that was?

A They bore the complete title, "The Security Main Office of the State", with an official stamp.

Q Who was in charge of the arrest bunker while you were there?

A You mean one of the accused, or do you mean in General?

Q No, I mean who was in charge of the bunker in general?

A First of all, Nies and Mohr, and later on Wolf and Weier, and a short time before Wolf, Remske.

Q Were you acquainted with Mohr during the time you were in the arrest bunker?

A Yes. I knew him well.

Q. Did you have an opportunity to observe his general treatment of prisoners there?

A I was able to observe him every day continually from morning until night.

Q Will you please tell the court what that treatment was?

A May I first also ask you exactly what period of time is involved here? Mohr came to the bunker in the summer of 1943, sometime in the summer. He was not the official chief of the bunker, but the official administrator of the arrest building was Nies.

Q May I ask that that answer be read?

(Whereupon the answer was read by the Reporter.)

A Nies was very ambitious and was anxious to do everything himself. He had the absolute authority in the arrest building. Around some time in September 1943 Mohr became sick and went to the hospital. Some time in November, it could have been December, 1943, he came back again. At that time there were relatively few executions going on in the bunker. I would like to call it isolated cases. Most of the executions at this period of time took place outside, in front of the crematory. After Christmas, at the end of December 1943, Mohr went on a rather long convalescent leave.

I can't tell you any more exactly when he returned. In April 1944 the great number of executions began. The largest number. Starting from this period of time there were executions almost daily. The minimum number of executions for one day would be one to two, and the maximum number of executions for one day would be 8 or 9. Koegel, commandant, relieved Mehr of his duties in June 1944, and Mehr came into the armament factory 2004.

(Whereupon the answer was read at the request of the President.)

Q You have testified that you took prisoners from their cells to the bathroom in connection with executions; during the time you did this do you know of any instance where the execution was not by official order?

PROSECUTION (Mr. Burkowitz): Objected to as suggestive and leading.

DEFENSE COUNSEL: May it please the court, it is simply asking did he know, and the previous testimony has indicated that he was rather well informed on this entire picture.

PROSECUTION (Mr. Burkowitz): If it please the court, I insist it is a leading question. The words of the answer are being put into the mouth of the witness. He might be asked what he knew of something of that sort, but certainly the question in its present form is leading and suggestive.

PRESIDENT: The objection is sustained. Rephrase the question.

Q It is your opinion, from what you yourself saw that all the executions with which you had anything to do were based on official orders?

PROSECUTION (Mr. Burkowitz): If it please the court, that is objected to for the same reason.

DEFENSE COUNSEL: May it please the court, this man has shown by his bearing that he is a man of considerable intelligence.

He testified that he had access to pretty much all the papers that were around in the office of the arrest bunker and that, since he thought he might be killed himself, he read them with much interest. He was in the arrest bunker for a period of some months and he has testified that it was his duty to prepare prisoners for execution. Now I submit that he is just as well qualified to form an opinion on this matter as, for example, any witnesses who have been asked, "In your judgment, how many people were in camp?", or something of that sort, and while he is not qualified as a legal expert, at the same time his general knowledge of the affairs of the affairs with which he was associated would be based on reasonable information and would have probative value to this court.

PRESIDENT: The Court understands, Mr. Berkowitz, that the basis of your objection was that it is a leading question?

PROSECUTION (Mr. Berkowitz): Yes, I object, first, on the ground that it is a leading question in its present form and secondly, I will object on the ground that the witness is incompetent to form an opinion on the subject matter on which he is being questioned. His testimony was that on certain occasions he was able to be alone for a short while and saw some papers. That certainly does not make him competent to testify as to the grounds, or basis, for executions in all cases, as he was questioned on the present question. Furthermore, the witness has already testified to what he saw and that, I think, would be sufficient, without any opinion, the opinion being formed by the Court and not by the witness. The question is an attempt to invade the province of the Court.

DEFENSE COUNSEL: I will reframe that.

PRESIDENT: What is your answer?

DEFENSE COUNSEL: Has the court ruled?

PRESIDENT: It is ready to rule. Read the question.

(Whereupon the question was read by the reporter.)

PRESIDENT: The objection of the assistant prosecuter, Mr. Berkowitz, is sustained on the first ground stated, namely that it is a leading question.

(Discussion off the record.)

Q Will you explain to the court, so far as you know, what connection there was between these execution orders and the executions which took place?

A The execution orders were read in the bath, as far as I can remember, and they were not read any more when the execution took place. But I can't testify exactly how the executions were carried out in the courtyard, outside, because I never was there myself.

Q Will you please tell the court, if you know, why Mohr was transferred from the arrest building to the detail 2004?

A I can tell you that exactly, because I listened in on that conversation and I overheard the conversation which took place between Commandant Koegel when he came into the bunker and relieved Mohr of his duties. He threw it in his face that he had treated the prisoners too well in the bunker; that he was lenient and that he was not capable of holding such a responsible position as this. I must remark here that Koegel had warned Mohn again and again, for weeks before this incident took place, and Koegel had literally said, If that situation doesn't change, I will relieve you.

Q About what time was this conversation?

A The warnings which took place before the incident took place some time in May 1944 and then Koegel came into the bunker almost daily in order to check Mohr, and the last conversation took place in June; to be exact, the last week before Whitsuntide, and then Mohr was immediately relieved of his duties.

Q Coming back to the question of these execution orders right in the bath, who was present at the time of these readings?

A Roll call leader, who read the orders, adjutant Baumgartner whenever he could be there. Sometimes the commander of the

camp, Koegel, the doctor, Major Schnabel and I was there.

Q And what was the substance of the orders so read?

A They were the same orders which I had earlier seen lying in the office but I couldn't read the orders when we were in the bath because the roll call leader held them in his hand in front of his face. Held the whole collection of orders together in one stack and leafed through them very quickly, reading the names out of them. It all happened very quickly.

Q Would you be able to recognize the man Mohr as to whom you have testified if you were to see him today?

A Yes.

Q Will you please look over the men seated behind me and inform the court if you recognize him?

A He is sitting on the fourth bench, the first one at the left; No. 28.

Q May it please the court, let the record show that the witness has identified the accused wearing No. 28 as Mohr.

PRESIDENT: Mr. McKay.

QUESTIONS BY MR. McKAY:

Q I am examining this witness on behalf of the accused No. 25. Dr. Wittig, while you were in the arrest building, did you ever come in contact with a man by the name of Mathoi?

A Yes.

Q What was the nature of your contact with Mathoi while you were in the arrest building?

A I had the usual connections with Mathoi, the usual official connections, in view of his being the camp eldest. I was not a good friend of his and I didn't have any comradely intercourse with him at all.

Q During the time that you were in the arrest bunker, did you ever see Mathoi present in the arrest bunker?

A Mathoi in his capacity as camp eldest was in the arrest building almost daily.

Q And what was the nature of his visit to the arrest building?

A For instance, it would be his duty to bring the prisoners from the camp into the arrest building who were going to be punished with solitary confinement. Dark confinement. And it was also his duty to come and get them again.

Q On the occasions of Mathei's visit to the arrest building, who else would be present?

A The administrator of the arrest building, who had the duty at that time.

Q Were any of your officials of the camp present when Mathei was in the arrest bunker?

A No.

Q Did you ever see any incidents in which Mathei was involved in the arrest building?

A Yes.

Q Will you describe these incidents for the court?

A Mathei often beat some of these prisoners.

Q Who was present at those beatings?

A The administrator of the arrest building, not always; and I.

Q Where did that take place?

A Usually when they were bringing the men in the courtyard if they didn't walk fast enough or caused the person any trouble. But I must make a fundamental difference here between mistreatment and beating.

Q Will you explain that difference?

A Whenever the word beating is mentioned I understand by that the way almost everyone in the camp was beaten by espos, with the open hand, or with the fist, or else with sticks. But I never saw Mathei with a stick. When the word mistreatment is used I understand by that that someone is beaten so severely that he is injured by it.

Q On these occasions which you witnessed, when Mathoi beat the prisoners was his conduct mistreatment, according to what you have just stated?

A That was beating. He was in a very rough spot. He didn't have any friends and he stood there all alone. He was constantly being reprimanded by the commander of the camp, by the commander of the Protective Custody Department, by the adjutant Baumgardner. He was working under severe pressure because he couldn't be severe enough and, on the other hand, he had all the cops against him because he couldn't condone their private deals--their black marketing. He was correct; proper. And I know that Mathoi himself was beaten by the leaders of the Protective Custody Department, Major Fritsch, because he refused, himself, to beat other prisoners.

Q Will you explain that to the court.

A It was in November or in December, 1943. At the time punishments were not carried out in the clerk's office, but in the bunker. After evening roll call the leader of the Protective Custody Department, Capt. Fritsch, brought a number of prisoners which were to go onto the sawhorse, the bunk. They set this wooden horse up in the courtyard of the arrest building and Fritsch told Mathoi, the camp eldest, to give the first prisoner 25 blows with a stick. Thereupon Mathoi said, Captain, I will not beat another prisoner." And then Fritsch cried at him and said, Why don't you do that? And then it was obvious that Mathoi was afraid of Fritsch, because in his uninhibitted and sadistic way Fritsch was incalculable, you could never tell what he was going to do, and he said to Fritsch, "I don't know how you do it." And then Fritsch said to him, "Well, then, I will show it to you, you pig." And then Fritsch pulled Mathoi over to the sawhorse and beat Mathoi, and very hard. Then Fritsch gave Mathoi a blow in the face with his fist and kicked him, and said,"Well, now you know how to do it."

And chased him out of the bunker with the parting words, "You sure are a fine camp eldest!"

Q Do you think that you could recognize Mathoi if you saw him again?

A Yes.

Q Will you look over the men seated behind me and see if you recognize the man you knew as Mathoi?

A He is sitting in the third row, the fourth from the left.

Q Let the record show that the witness has identified the accused wearing No. 25, as Mathoi.

PRESIDENT: Dr. Engelhorn.

DR. ENGELHORN: I would like to take this witness in a cross examination in behalf of the accused Wolf.

PROSECUTION: Cross?

DR. ENGELHORN: Cross examination.

PRESIDENT: Cross examination.

PROSECUTION: May it please the court, on cross examination, he is going to have him at this time?

PRESIDENT: Absolutely. Read the record. We will give the Prosecuter an opportunity to check the record, if desired.

PROSECUTION: I just wanted to be certain that I know what the court is doing, that is all.

PRESIDENT: Do you desire time to check the record?

PROSECUTION: No, sir; not necessary.

PRESIDENT: Proceed.

QUESTIONS BY DR. ENGELHORN

Q Is it true that you said yesterday in your testimony, Dr. Wittig, that when the executions were carried out in the courtyard that no formal documents were read? Is that correct?

A Yes, but I must add something to this testimony now. I can't say that formal actions were undertaken in the courtyard, because I wasn't there myself.

Q What do you understand by formal proceedings?

A When the talk is about formal proceedings I would understand by that that perhaps a verdict or something of that nature would be read aloud in the courtyard by the executioner.

Q I would like to refer you back to the fact that today you testified that in the execution orders there was a short basis for the decision in the orders, which came from the main Security Office in Berlin.

MR. McKAY: Dr. Wittig, will you face the court and speak up so that everybody can hear you.

Q Would it be possible for you to give us a quick example of what these basises of the verdicts would be like?

A The basises of the verdicts would be very short; at the most four or five typewritten lines.

PRESIDENT: Court will take a half hour recess.

(Whereupon the Court, at 0955 hours, recessed.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, let the record show that all personnel of the court are present; all the personnel of the prosecution are present with the exception of Colonel Denson, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Major Oeding, Mr. Hall, Doctor Engelhorn, and Doctor Wacker, the latter being ill and the others being absent on business of the accused; all the accused are present with the exception of Olschewski, Oswalt, and Buddensieg, who are sick in the hospital, and Mussfeldt and Fahrnbauer, who are in consultation with counsel.

The witness is reminded that he is still under oath.

If there are any witnesses in the courtroom, they will please leave.

COLONEL WILSON: Let the record reflect that Doctor Engelhorn has come in, please.

DIRECT EXAMINATION CONTINUED

QUESTIONS BY DOCTOR ENGELHORN:

Q Doctor Wittig, we last talked about a basis of convictions being contained in the order for execution. Now, I would like you to explain to the court what kind of basis that was.

A I still remember some of the reasons given. In some cases no sentences by regular courts were in the basis of the execution orders, and also no sentences by the states' courts or people's courts.

PRESIDENT: The court would like to ask the witness if he is reading from a memorandum in his own handwriting, his own notes.

DOCTOR WITTIG: Yes. I took down four points in order that I wouldn't forget.

PRESIDENT: Proceed.

A In several cases the basis for the execution orders for Russians who had been brought to Flossenburg for the purpose of execution was looting while clearing away rubble caused by air attacks. The basis for the execution of those Russian prisoners who had made a revolution in the camp of Milsen because of starvation was terror - revolution. Those Russians were killed by shots through the neck. The basis for the execution order for a woman who was hanged in the bunker was that she had infected several members of the SS with syphilis. I can't remember the basis given for the execution of the two English officers who were executed in the summer of 1944. These are the cases I can remember.

Q Is anything known to you about the occurrences in Milsen; you were talking about the revolution in Milsen.

A All I knew is that the men who reputedly were guilty in the revolution of Milsen were interned in the bunker and were executed there. Everything else I know from hearsay.

Q What do you know about that?

A I heard stories that those Russians who worked in Milsen were treated very badly, partly by the SS, on the other part by the Capo Wielbach. Wielbach was supposed to have given them very little to eat and was supposed to have sold part of the food which they were entitled to, to civilian personnel. The conditions of starvation were supposed to have been so terrible in Milsen that as a result of that the revolution was made. During this there was a large number of dead and the alleged 80 were taken to the bunker and were executed in the courtyard of the bunker by shots through the neck.

Q Come to another point. You testified yesterday that after the commission of an execution one of the prisoners was still alive and Wolf fired two more shots at him.

A Yes.

Q Will you please describe this incident in detail to the court.

A After the execution had been completed, I was taken out to the courtyard as usual. The SS personnel who had participated in the execution, the Commandant Koegel, the Adjutant Baumgartner, the roll-call leader, and the Doctor, Obersturmbahnfuehrer Schnabel, had already left the courtyard of the bunker so that I was alone with the corpses. While I was approaching them, I heard heavy breathing and I was able to determine that one of the dead was still breathing, but he was unconscious. I went back into the house and told the now accused Wolf, who had been present during the execution, that there would be no question about this man being taken to the crematory. Whereupon Wolf returned to the house, picked up his rifle from the closet and ammunition. It was a small caliber rifle with which the next shots were administered. He came back out and fired twice at the man who was in a prostrate position.

Q In what condition was the Russian who received those two shots by Wolf?

A According to my opinion, he probably would have died within a half hour anyway. The thing Wolf did was what you would call, in a general way, a mercy killing. I am not in this case reproaching Wolf, but Obersturmbahnfuehrer Schnabel, who was in cases like this a swine.

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Q Another point now. You told us yesterday that you not only had been in Flossenburg, but also Sachsenhausen and Mauthausen.

A Yes.

Q Please tell the court if there was any distinction between those camps and if they were different kinds of camps.

MR. BERKOWITZ: That is objected to on the grounds of repetition. The witness testified about that before, yesterday.

DR. KNOELHOEN: It is not a repetition insofar as I asked the witness whether he knew if there were different kinds of concentration camps.

PRESIDENT: The objection of the assistant prosecutor is overruled. The court does not feel that this subject has been completely covered.

A I was already in Sachsenhausen, before the war, and before I was put into solitary confinement in Sachsenhausen in the bunker, I had been in disciplinary company there. It was very hard and superhumanly difficult and many people died. Mass executions were at that time not carried out; they started only after the war had begun and after the foreigners had arrived. Sachsenhausen was classified at that time as No. 1 camp. In the bunker in Sachsenhausen where I always was, it was bearable. When I arrived in February '42 in Flossenburg, everything was much worse. Flossenburg was officially classified upon my arrival there as a Class 2 camp. That can easily be determined because Flossenburg was a camp with a stone quarry. The treatment of prisoners in Flossenburg was much harder and there was a much higher rate of mortality because of mistreatments, because of hard work, and because of cold weather conditions. The treatment of prisoners in the bunker of Flossenburg was harsher

compared with Sachsenhausen barker. Upon my arrival in Flossenburg, I was prohibited ever to write a letter, ever to receive a letter, ever to read anything;with the exception of the times that the barber came, I never saw anything or anyone. I was not allowed in Flossenburg to take any walks as I had been allowed in Sachsenhausen to get fresh air. That was the common treatment of prisoners in solitary confinement in Flossenburg. The 15 British officers were kept much stricter yet. The only one who was an exception there was the special prisoner, Prince Philipp of Hesse. His treatment was comparable to the treatment a paying guest of a hotel receives. What I mean to say is that Flossenburg was very hard and much harder than Sachsenhausen. When I was transferred to Mauthhausen in September of 1944 for reasons of punishment, I found a much harder camp yet. You can't compare it at all with camps like Sachsenhausen, Flossenburg, Buchenwald, or Dachau because Mauthausen was a special camp among all these, the one and only extermination camp. In Mauthhausen everyone was exterminated. If not by executions - that means gas chambers - he would die within two or three or four months because of the work.

Q Is it known to you whether any executions were carried out in Mauthausen for which no official basis was given?

MR. BERKOWITZ: That is objected to as incompetent and irrelevant.

DR. ENGLEMAN: It belongshere and is within the scope of cross-examination.

PRESIDENT: The objection is sustained.

Q Please tell the court if you know what classification Mauthausen had.

A Upon my arrival at Mauthausen, I was told by the leader of the political section, First Lieutenant Schulz , verbatim: "You know that you landed in a camp classified as No. 3."

Q Would you be able to recognize the accused Wolf today?

A Yes.

Q Please look over the defendants and see if you recognize him.

A He is in the last row, the second from the left, No. 51.

DR. KNOELHOEN: Let the record show that the witness recognized No. 51 as the accused Wolf. Thank you.

PRESIDENT: Further direct examination?

MR. MCKAY: May it please the court, I am again in an embarrassing position. This witness has struck out against another man whom I represent and I respectfully request the opportunity of cross-examining on behalf of Wielbach.

PRESIDENT: The court understands, Mr. McKay, that you desire to cross-examine this particular witness as far as his testimony against Wielbach is concerned.

MR. MCKAY: That is correct.

PRESIDENT: Proceed.

CROSS-EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Did you obtain your information about conditions in Milsen from the Russian prisoners that were in the arrest bunker?

A No, I didn't speak Russian.

Q Where did you obtain this information?

A From German prisoners and from the administrators of the arrest building.

Q In other words, all that you have any knowledge about is hearsay?

A Yes.

Q Do you know whether any official action was taken in regard to this matter which resulted in the execution of the Russians?

A There were also orders for the execution of these Russians.

MR. MCKAY: That's all.

PRESIDENT: Any further direct examination or cross-examination on the part of the defense?

COLONEL WILSON: No, sir.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Doctor Wittig, what administrators of the arrest building gave you the information concerning Wielbach's treatment of prisoners at Milsen?

A The administrator Nies.

Q And who was administrator of the arrest building at the time these men from Milsen were executed?

A The administrator at that time was Nies.

Q And who was his assistant?

A At that time Mohr.

Q And do you know who carried out the executions against the men from Milsen?

A As far as I can recall it - but I am not certain about it any more - Nies was present when these Milsen prisoners were executed and not Mohr.

Q And the information that you had was that the prisoners revolted because of mistreatment received at Milsen from SS personnel and Wielbach. Is that correct?

A Yes.

Q Did you ever see Wielbach take part in any executions in the bunker?

A That he was present, yes; but I can't swear to it that he, himself carried out executions.

Q Will you describe what you saw of Wielbach in the bunker in connection with executions?

A When Baden , my predecessor, was relieved by Koegel, I had to take over all his work. The next day Koegel came and told me that and also ordered me to carry out all hangings. I refused this order. Koegel then offered me cigarettes, liquor, and ten marks for each execution and then Koegel said, "If you don't want to do it, I'll have to bring someone in here from the big camp and I don't like to do that." I still refused. Then, when the next execution or hanging had to be carried out, the camp eldest Hul and Wielbach were selected for this. They were present during the executions in the courtyard but I can't state whether they, themselves, carried out the executions because I was not allowed to be present. I was locked in when executions were going on in the yard.

Q Now, what were you requested to do with regard to executions?

A I had to let the prisoners who were to be executed out of their cells because I had the keys and had to take them to the bathroom. I stood next to them while they stripped and then I had to wait with them till the roll-call leader and Baumgartner arrived to take them to the execution.

Q Now, what functions in connection with executions did you refuse to perform?

A Executions in general.

Q And was Wielbach selected in your place to carry out

those duties that you refused to perform?

A Yes and Hul.

Q Were you ever punished for refusing to carry out such functions in connection with executions?

A No. I was sent to Mauthausen as punishment, but for a different reason.

Q When did you refuse to carry out such functions?

A In June, 1944, after Baden had been relieved.

Q And you remained in Flossenburg until September '44. Is that correct?

A Yes.

Q Will you look over the defendants in the box and see if you can recognise Wielbach?

A Yes, No. 48.

MR. BERKOWITZ: If the court please, let the record show that the witness identified No. 48 as the defendant Wielbach.

Q Now, you spoke of the case of Wolf coming out in the courtyard at your request and shooting a victim of an execution who was still alive. Can you tell us how many people were executed on that day?

A Approximately 12 to 15.

Q Do you know the nationalities of those victims?

A Russians.

Q Do you know who carried out those executions on that day?

A I don't know who fired, but after the execution Wolf had come back to the house with a rifle and after he had been called back out with his rifle, he himself told me so because when I showed him the man who was still alive, he was very surprised and said words to the effect, "I fired well", or "I fired right."

Q Did Wolf call a physician after you called his attention to the fact that one man was still alive?

A I don't know any more but I know that he discussed this case with Schnabel. He reproached Schnabel quite severely and Schnabel answered that it was not important because he would have died anyway.

Q What I mean to ask is: Did he call any physician prior to administering the shot?

A No.

Q Were there any women that were executed in the bunker?

A Yes.

Q How many cases do you know of?

A I know of seven cases during the time that I was there.

Q Do you know who carried out the executions of these women?

A No.

Q Now, you said the prisoners were led to the bathroom, undressed, and then their hands were bound with wire. Who bound their hands?

A Lidenand another prisoner who worked in the bunker, beside myself, a prisoner by the name of Otto Weiden I, myself, refused it.

Q Were you ever punished for refusing to bind the hands of victims?

A No.

Q Do you know whether the men who carried out the executions in the bunker at Flossenburg received any reward for doing so?

A Yes.

Q What was that reward?

A Cigarettes and liquor.

Q Do you know whether Mohr received such compensation?

A Yes, he received such compensations because that was the customary thing after each execution.

Q Do you know whether Wolf received such compensation?

A The same.

Q Do you know whether Wielbach received such compensation?

A No.

Q Now, I believe you testified concerning certain conversations between Koegel and Mohr. Koegel complained that if Mohr didn't improve he would have him removed. Is that correct?

A Yes.

Q During those conversations which you heard, did you ever hear Mohr refuse to execute prisoners?

A No.

Q Do you know what would have happened to an SS man who would have refused to carry out an execution?

COL. WILSON: That question was "do you know". I would like to have that answered yes or no before it is developed any further.

MR. BERKOWITZ: Answer yes or no.

PRESIDENT: All right. Proceed.

A I do not know what would have happened to him because that varied in all cases, but I can tell you about one case that is known to me.

Q Will you tell us about that case?

COL. WILSON: I move to strike the answer. He testified that he does not know.

MR. BERKOWITZ: I believe, if the court please, that the witness says he doesn't know what would happen in every case, but he does know one case. I don't know what the ground of the objection is.

COLONEL WILSON: He was called on to make a yes or no answer and instead of making a yes or no answer, he made a very long answer which, however, says that he does not know.

MR. BERKOWITZ: I believe the answer was an explanation of why the witness cannot give a yes or no answer.

PRESIDENT: Objection of defense counsel overruled.

Q Will you tell the court about that one case about which you do know?

A Yes.

Q Will you tell it please?

A One of the predecessors of Mohr was the Scharfuehrer Bensko. Bensko refused Major Fritsche to carry out executions.

Q Did you hear such a refusal, yourself?

A Yes.

Q Do you know what happened to Bensko?

A Bensko was relieved as administrator of the arrest building and was sent to the detail 2004, and later was sent to another concentration camp outside of Germany, either Riga or Lublin, but as an SS man, not as a prisoner.

Q Now, you have testified as to conversations between Mathoi and Fritsche. Did you ever hear any conversations between Mathoi and the commandant?

A Yes.

Q Can you tell the court what personal pronoun in German was used in conversation between Mathoi and the commandant?

A He addressed him with the form of politeness as "thee."

Q When Mathoi beat these prisoners whom he brought to the arrest, was that an official beating in compliance with orders?

A No, it was the beating that usually took place between capos and prisoners in the camp.

MR. BERKOWITZ: No further questions.

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MR. BERKOWITZ: No further questions.

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PRESIDENT: Redirect by Colonel Wilson.

REDIRECT EXAMINATION

QUESTIONS BY Colonel Wilson:

Q In those conversations between Koegel and Mohr which you overheard, did Koegel raise the matter of executions specifically?

A No.

Q Do you know what happened to Hensko at either of the camps to which he was transferred afterwards?

A No.

Q Do you know whether he is alive today or not?

A No.

RECROSS EXAMINATION

QUESTIONS BY Mr. MOKAY:

Q Did I understand you correctly to say that Wielbeah and the camp eldest came into the arrest after Koegel told you that he was going to bring somebody in for these executions?

A Yes.

Q Do you remember what date that was?

A That was in June, 1944.

Q Can you recall the date any more accurately?

A No, shortly after Buden had been relieved.

Q You stated that you took over the duties of Buden. Did you take over his duties as interpreter as well?

A No.

Q Hadn't Buden been the major-domo prior to you?

A Buden was the orderly of the arrest building and the interpreter at the same time.

Q So, you did not take over his duties as interpreter?

A No.

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Q Did you ever see Wielbach in the arrest more than once?

A More than once, yes - but not often.

Q And what were the dates of that occurrence?

A That was between June '44 and September '44, when I was transferred to Mauthausen.

Q You say that he came in with camp eldest Hul?

A Yes.

Q Are you sure it was Wielbach who came with Hul?

A Yes.

MR. BERKOWITZ: May it please the court, I ask that the question be stricken because it is argumentative.

PRESIDENT: Motion overruled.

Q Do you know that Wielbach left Flossenburg in August of 1944?

A No, but if he left Flossenburg in August '44, then it was not between June and September, but between June and August.

Q Was the execution in June at which you claim Wielbach was present the execution of the Russians?

A No.

Q You stated that you did not see Wielbach participate in the execution. Is that correct?

A I did not see it. I only saw that he entered the yard with Hul at the time of the executions and thereafter left the yard with Hul.

Q Did you observe whether as Hul and Wielbach entered the arrest yard they were under guard?

A They were not under guard, but the usual personnel who was present during executions was present, however they did not come together.

Q During the conversations between Koegel and Mathoi, did you ever hear anything in the form of a reprimand upon the part of Koegel?

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A They were not under guard, but the usual personnel who was present during executions was present, however they did not come together.

Q During the conversations between Koegel and Mathoi, did you ever hear anything in the form of a reprimand upon the part of Koegel?

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A Very often.

Q Will you explain that to the court?

A Mathoi was as camp eldest victim to be blamed by the commander. What I mean to say is that he was constantly reprimanded by Koegel because he was responsible for all occurrences in the camp.

Q Can you describe just what Koegel told Mathoi on any of those occasions?

A He scolded him quite often and when he scolded him he would use the term "du", the familiar term, and he would say, "You are a bad camp eldest." Besides there was always a strong tension between the two. May I add an important point?

Q In the use of the word "du", as you understand it in German, is that always applied between friends or is that an expression frequently used towards animals by human beings?

MR. BERGWITZ: That is objected to as leading. He should be asked to explain the use of the term.

MR. MCKAY: I withdraw the question.

Q Will you explain to the court the use of the word "du" in German, among German people.

A Among equal Germans who are more or less on a democratic basis, the term "du" is a term of confidence.

Q Does that apply in all cases?

A No - and it does not mean a lowering of anyone.

Q Explain the other circumstances of the word "du".

INTERPRETER: Do you want that censored, sir?

PRESIDENT: Go right ahead and translate it.

A The word, the term "du", in the concentration camp was about the same as the term used, "sack of shet".

PRESIDENT: At the same time, the court desires to caution the witness about expressions of that nature. The court

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feels that the witness could have very readily explained that term without using the expression that he saw fit to use.

Q At the time that Koegel used this word to Mathoi, in what sense did you understand him to use it?

A He told him, "You -meaning "du" - are a fine camp eldest. You don't even make any reports."

Q Do you know whether Mathoi was later removed as camp eldest by Koegel?

A Yes.

PRESIDENT: Anything further by the defense at the present time?

COLONEL WILSON: No, sir.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further.

COLONEL WILSON: May I have a minute, please?

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place at 1125 hours and reconvened at 1135 hours.)

PRESIDENT: The court will come to order. Has the defense anything further at the present time?

COLONEL WILSON: Nothing further.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further at the present time.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q You mentioned that among the persons who signed these death warrants, there was a man by the name of Mueller. How do you spell that name?

A M-u-e-l-l-e-r.

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Q What was his first name?

A There was no first name given .

Q Do you know what became of that individual?

A No.

Q Now, you testified that Wielbach was supposed to have stolen food from the inmates at Milsen. Just where did you get that information?

A Only from prisoners and from the arrest administrator Miss.

Q Did prisoners mention Wielbach by name in giving you that information?

A Yes.

Q Did the prisoners who gave you that information indicate that was a general practice on the part of Wielbach while at Milsen?

A The case of Milsen was so widely known and was so talked about in camp that everyone at all times discussed it.

Q Can you tell the court whether or not Milsen was an out-camp of Flossenburg?

A Milsen was not really an out-camp, but an outside detail; however, the prisoners slept there.

Q Do you know whether or not Milsen was under the administration and jurisdiction of the Flossenburg camp?

A Yes.

Q How do you spell this Milsen?

A M-i-l-s-e-n. Milsen in Czechoslovakia.

Q Now, you mentioned also that in 1941-1942 Flossenburg was classified as a No. 2 camp. Was that the general impression at that time among the prisoners?

A It was the general impression. I was also told officially upon my arrival.

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Q Now, you remained in Flossenburg until 1944. Did this classification as to Flossenburg change as far as you know?

A The classification did not change, but the treatment as every place else except Mauthausen.

Q Do you know whether or not this classification changed in 1945?

A According to my reports that I received, no.

Q Now, you have mentioned that certain of these executions took place on the basis of orders received from Berlin.

A Yes.

Q The court is referring to the protective custody section in Berlin. Can you tell the court definitely whether or not any of the executions took place at Flossenburg without any orders having been received from Berlin? I am speaking of the orders referring to death warrants.

A I know of cases whereby the protective custody camp leader Fritzsche beat prisoners to death in the courtyard and also shot them to death.

Q Were these cases in compliance with orders of the protective custody section in Berlin?

A No, these were private murders.

Q Do you know of any other cases that took place in Flossenburg? The court is speaking of executions which were not directly based on orders received from Berlin.

A No.

Q What was the official capacity of Fritzsche at that particular time that you mentioned?

A His official capacity was captain and leader of the protective custody camp.

Q What organization did he belong to?

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A To the camp headquarters.

Q Well, was he a member of the SS or not?

A Yes.

Q What became of Fritsche?

A Fritsche was transferred in 1944 shortly after Koegel had become commandant at another newly activated camp in Friedrichshafen on Lake Constance, where he again became either commandant or leader of the protective custody camp.

Q Do you know anything about the whereabouts of Fritsche at the present time?

A No.

Q You don't know what ultimately became of him?

A No.

PRESIDENT: Any further questions by the court?

QUESTIONS BY COLONEL SKIELVIG:

Q Doctor Wittig, what is your present occupation?

A I am in a free profession. I am a writer.

Q Is that in Frankfort?

A Frankfort on the Main.

PRESIDENT: Further questions?

QUESTIONS BY MAJOR LANHAM:

Q I want to ask you one question about the Russians who were executed. Did they have orders from Berlin for the execution of the Russians?

A There were orders from Berlin for the ones executed in the bunker.

QUESTIONS BY PRESIDENT:

Q Doctor, are you a doctor of medicine or law or philosophy?

A Doctor of law.

PRESIDENT: Any further questions by the court?

QUESTIONS BY COLONEL SKIELVIG:

Q While you were working as orderly in the arrest building and had access to the numerous records, do you know of any case where an order came down for the execution of a man and that order was not carried out?

A No.

Q In other words, all execution orders were carried out?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Mr. McKay.

RECROSS EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Where did you say Milsen was located?

A In Czechoslovakia.

Q Are you sure about that?

A It was addressed as such.

Q Did you ever hear of Milsen being in Saxonia?

A No.

Q This man Mueller whose signature you saw in the arrest building, did he have any rank of any kind?

A Not on the orders, but I was told that it was the General Mueller, Chief of Berlin Gestapo.

PRESIDENT: Has the defense anything further?

COLONEL WILSON: No, sir.

PRESIDENT: Further cross?

MR. BERKOWITZ: No.

PRESIDENT: Questions by the court? The court understands that the defense has finished with this particular witness.

COLONEL WILSON: Yes, sir.

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PRESIDENT: The witness will be excused. The court will adjourn until 1:30 this afternoon.

(Whereupon at 1200 hours the court recessed until 1330 hours.)

AFTERNOON SESSION

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowits who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding and Mr. Hall who are absent on business of the accused and Dr. Wacker, who is ill; all the accused are present with the exception of Risbusch, Jakubith, Oswalt, Olschewski, Buddensieg, Losch and Ginschel, who are sick in the hospital. The interests of these accused are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: The Court has appointed Mr. Louis O. Flom as Court Reporter. He will be sworn.

(Whereupon Louis O. Flom, U.S. Civilian, was sworn as Court Reporter.)

MR. MC KAY: Next witness is being called on behalf of the accused Nos. 25 and 14, Paul Mueller.

PAUL MUELLER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you state your name for the court?

A Paul Mueller.

MR. MC KAY: Does the court desire spelling of this name?

PRESIDENT: Yes, if you will.

QUESTIONS BY MR. MC KAY

Q Will you spell your name for the court?

A P-a-u-l M-u-e-l-l-e-r.

Q Mr. Mueller, where are you at present residing?

A In Flossenburg.

Q Where are you at present living?

A In the special camp in the Sonderlager.

Q Is that here in Dachau?

A Yes.

Q Are you being held by American authorities?

A Yes.

PRESIDENT: The court feels it necessary to caution the witness at the present time that if he should be asked any questions that might intend to incriminate him, he may request the court to refrain from answering. Do you fully understand?

THE WITNESS: Yes.

QUESTIONS BY MR. MC KAY:

Q Mr. Mueller, were you ever in Flossenburg Concentration Camp?

A Yes.

Q In what capacity were you in Flossenburg Concentration Camp?

A During the last time in the section billeting, I was the leader of the laundry and of the kindling wood section.

Q Were you a prisoner?

A No.

Q What was your capacity there?

A Unterscharfuehrer--Sergeant.

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Q You were a sergeant in what unit?

A In the Waffen S.S.

Q During the time that you were in Flossenburg, what connection did you have with the laundry?

A Until November, 1944, I made the decision in the morning what had to be washed and I handed out the fuel.

Q When did you first take charge of the laundry in Flossenburg?

A November 1st or 2nd, 1942.

Q Did you continue in charge of the laundry from '42 until '44?

A Until '45.

Q During the time that you were in charge of the laundry did you ever have any contact with any of the prisoners in Flossenburg?

A Yes, with the 30 prisoners I had in the laundry.

Q Did you ever come in contact with a prisoner by the name of Karl Mathoi while you were in Flossenburg?

A Yes, I knew him as camp eldest.

Q Did you ever have any official dealings with Karl Mathoi while you were in the laundry at Flossenburg?

A No, but I know that?Fritsch administered chicanery to Karl Mathoi on the roll call square. Then after he had gone, I asked him something and he started to shout at me. I immediately recognised the condition of his mind and I went back to the laundry. Then he came after me and he was crying with a solicitation that I should shoot him right away. He said to me if I would not have courage to shoot him from the front, he would turn around and I could shoot him

from behind. I saw his nervous frame of mind and told him to return to his room to lie down and sleep and see the doctor the next day.

Q Do you think you could recognize Karl Mathoi if you saw him again?

A Yes.

Q Will you look at the men seated behind me in the dock and see if you can recognize the man you knew of as Karl Mathoi?

A Yes.

Q Point him out to me.

A The black one, 25 (indicating).

MR. MC KAY: Let the record show that the witness has identified the accused wearing the No. 25 as Karl Mathoi.

Q During the time that you were in the laundry did you ever come in contact with a man by the name of Karl Gieselman?

A He came quite often to the laundry to visit his comrades.

Q Will you explain to the court just what rules and regulations you were given with regard to prisoners coming into the laundry?

A I did not quite understand the question.

MR. MC KAY: (To Reporter) Will you read the question?

(Whereupon the question was read by the reporter.)

Q Will you explain this to the court?

A No prisoner was supposed to enter the laundry outside of those who worked there. That was by orders of the Commandant Koegel, but I silently tolerated that if prisoners would enter the laundry at times.

Q Did you ever have any conversations with Gieselman when he came into the laundry?

A Yes.

Q Will you explain the nature of those conversations to the court?

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A I asked him quite often what he was doing in the laundry and he told me he visited with his comrades and I explained to him it was actually forbidden.

Q Did you have any other dealings with Gieselman while you were in the laundry other than these conversations?

A No.

Q Will you explain to the court what the condition was with regard to the laundry about loss of various items of clothing and blankets during the time you were in charge of the laundry?

A Yes, I caught Gieselman twice stealing blankets or organising them for his block.

Q What do you mean by organizing them?

A Actually for his block, I asked him why he was doing it and he told me he was missing blankets in his block, but I didn't want to make a report because prisoners were punished too severely.

Q How often did this occur?

A Twice I caught him. How many other times he stole blankets I don't know.

Q You stated you were also in charge of the wood. Will you explain that to the court?

A Yes, 20 to 25 prisoners, sometimes more, sometimes less, worked in the woodyard.

Q Did you have any connection with Gieselman in connection with the woodyard?

A No.

Q Do you know what block Gieselman was in charge of at the time he took these blankets?

A Block 19.

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Q Do you know what kind of prisoners lived in block 19?

A Juveniles.

Q You think you could recognize Gieselman if you saw him again?

A Yes.

Q Will you look over the men seated behind me and see if you see the man you knew as Gieselman?

A Yes.

Q Will you point him out to me?

A The second with the glasses in the second row, No. 14 (indicating).

MR. MC KAY: Let the record show that the witness has identified the accused wearing No. 14 as Gieselman.

You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION

Q What insignia did you wear on your collar?

A A star insignia of the Unterscharfuehrer--of the sergeant.

Q What did you wear on the other side of that collar?

A A shoulder stripe with silver embroidery.

Q I didn't ask you that, I asked on your collar.

A It was a green collar with silver stripes.

Q What did you wear on the right-hand side of your collar?

A I had the Deathhead.

Q Did you ever report prisoners for their delinquencies?

A No.

Q You never at any time reported a prisoner while you were in Flossenburg for delinquencies?

(Mueller - Cross)

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A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. MC KAY: Nothing further, sir.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER

Q You said you were a member of the Waffen S.S. and you say that you wore the Deathhead insignia on your right collar. Which is correct, were you Waffen or Deathhead?

A The Waffen S.S.

Q Why did you wear the Deathhead on the collar?

A Everyone who was in a concentration camp wore that.

Q Why is that true?

A Because those were Deathhead organizations.

Q Are you talking about concentration camps or the S.S.?

A The S.S.

QUESTIONS BY THE PRESIDENT:

Q You mentioned something about some chicanery perpetrated by Fritsch upon Mathoi which occurred upon the roll call square. What did you mean by that?

A He scolded him badly. He shouted at him.

PRESIDENT: Any further questions by the members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY

Q Do you know whether the Toten Kopf S.S. was a division of the Waffen S.S.?

A Yes.

MR. MC KAY: That is all.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Any further questions, members of the court? Apparently not. Is the defense finished with this witness? The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. MC KAY: At this time the accused Hauser, No. 18, desires to take the witness stand in his own behalf.

PRESIDENT: Hauser, the court would like to know definitely as to whether or not you desire to take the stand in your own behalf.

THE ACCUSED: Yes.

PRESIDENT: Proceed.

JOSEF HAUSER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY

Q State your name.

A Josef Hauser.

Q Are you one of the accused in this case?

A Yes.

Q Mr. Hauser, were you a prisoner in Flossenburg, Concentration Camp?

A Yes.

Q Will you explain to the court how it happened that you became a prisoner in Flossenburg Concentration Camp?

A Yes. On the 18th of January, 1938, I was supposed to be drafted and in October 1937, I was ordered to go to a particular place and when I got that, I fled. I went with my girl to Switzerland. I stayed there for 3 months and on the 13th of January 1938, I was arrested on the border by the police. I was arrested in the

investigation prison in Larack. There I was interrogated by the Gestapo on the charges that I failed to report to be drafted which were read to me. I stayed in Larack for 5 months and then I was sent to Freiburg to the military court. There I was condemned to 4 years in the penitentiary and my girl to 14 months in prison. Thereupon, I was transferred to the penitentiary in Bruchsal and there I sat out my sentence until the 23rd of February, 1942.

Q What happened to you following the 23rd of February, 1942?

A On the 23rd of February, 1942, I was released from prison there and the government counsellor Backfisch, the brother of Wagner, told me I had to report in Nurnberg immediately. I went to Nurnberg. My parents came and got me and I immediately went to the police station, and thereupon I was immediately put in arrest and stayed for 6 weeks in the police station.

Q When did you actually arrive in Flossenburg Concentration Camp?

A 20th of April, 1942.

Q Upon your arrival in Flossenburg, what was the first barracks that you lived in?

A I was for 3 days in the block for new arrivals--14, and then I became sick and stayed there until around the 10th of May.

Q Did you remain in the block during the time you were sick?

A No, after I was released from the hospital, I was sent over to block 4.

Q When you arrived in Flossenburg were you given a number?

A Yes.

Q Were you given any other mark of identification?

A Yes.

Q What was that?

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A I got a green triangle although I really should not have gotten it.

Q And who gave you that green triangle?

A The sergeant of the S.S. Fassbender from the political department.

Q Were you given any kind of a hearing before you were given the green triangle?

A Yes.

Q Explain that to the court.

A Before I was transferred to Flossenburg I was supposed to sign my protective custody order in Nurnberg; it consisted of 3 sheets. I refused to sign it and I told the commissioner Ritter that I would not sign my own death sentence. I knew what it was like in a concentration camp because my cousins had been in one from 1933 until 1940 and I didn't sign it, and on the 20th of April when I got to Flossenburg and stood face to face with the sergeant of the S.S. Fassbender he asked why I hadn't signed it and I told him I wouldn't sign any death sentence because I knew what it contained and, thereupon, he struck me until I signed it.

Q After you were assigned to live in block 4 what detail were you assigned to work on?

A Quarry stone-cutters division, hall 5.

Q What kind of work did you do there on that detail?

A I did stone-cutting, made stones for steps and all kinds of general stone cutting.

Q How long did you continue to work on that particular detail?

A I stayed there until September. In September I was put into the punishment company until October 1942, and after I got out of punishment company, I was sent back to the stone cutters in the quarry.

hall 5, and there I stayed until June '43.

Q Will you explain to the court why you were sent to the punishment company?

A I was sent to the punishment company because I had broken a stone which was worth 6 to 8 hundred marks and Sergeant Säusebert reported me to the leader of the protective custody department Fritsch. He was the supervising authority for the halls 3 and 5 in the stone-cutting division of the quarry.

Q Where did you work while you were in the punishment company?

A We worked with wheel barrows. We moved around. For 14 days we worked in the ponds behind Floss.

Q Where else did you work while in punishment company?

A We worked also in a new hall which had been built where the lathes had been kept---machine shop.

Q How long did you continue to work in the stone quarry after you had returned from the punishment company?

A From October, '42, until June '43.

Q During the time you worked in the stone quarry, who were your capos?

A The first capo in the stone-cutters hall was Langwagen. He went away in '42 and the second capo was Jupelle.

PRESIDENT: Now the court feels it necessary at this time to caution certain spectators that there will be no humor in this courtroom during any of these sessions. Some of these men are on trial for their lives and if anybody finds anything humorous in the courtroom at the present time it will be necessary for the court to insist that he leave. The court directs that the guards carry that matter out by direction of the court right to the letter. Proceed.

(Hauser - Direct)

QUESTIONS BY MR. MC KAY: (Continued)

Q During the time that you continued to work in the stone quarry in what barracks did you continue to live?

A Block 4.

Q When you were in the punishment company, what block did you live in?

A I was transferred from block 4 to block 14 because the punishment company was kept off by itself.

Q How long did you continue to work in the stone quarry?

A In the summer time we went off to work at 6:30 in the morning. Work began at a quarter to 7 until 12 o'clock, and from 1 o'clock until 5:30; and in the winter we went off to work as soon as it got light and came back from work to camp as soon as it got dark at night.

Q What was the last date that you worked in the stone quarry?

A Until the end of June, '43.

Q What happened to you following the end of June, 1943?

A At the end of June, 1943, all the stone cutters had to fall in and the chief capo Hessler picked out certain people to work in division 2004.

Q And when you say division 2004, what do you mean?

A Messerschmitt factory.

Q Will you explain to the court where the Messerschmitt factory was located with regard to the stone quarry?

A The Messerschmitt factory consisted of former stone-cutters halls. After '43, the halls of the stone cutters were, one by one, converted into Messerschmitt factory. There was only one stone-cutters hall remaining, hall No. 7.

Q Did the stone-cutters quarry continue to operate during the period of time that the Messerschmitt factories operated?

A When the Messerschmitt factory started in operation around the beginning of '43, I believe two quarries were still in operation. The only two quarries which were active were quarries 1 and 2.

Q To what detail were you first assigned to work in the Messerschmitt factory?

A To a work outfit in department 2.

Q What kind of work did you perform there?

A Here the walls of the fuselage of airplanes, the wings and the framework for the engine were all made.

Q Do you recall the date you first began to work on this detail?

A Beginning of July, I believe, '43.

Q And in what capacity did you work on this detail?

A As a riveter on the side fuselage.

Q Did you have anything to do with the administration of the work on the detail at that time?

A No.

Q How long did you continue to work on this particular detail that you have just described?

A I stayed there until the beginning of January, 1944.

Q Did you ever hold the position of a capo in the Messerschmitt factory?

A Yes.

Q On what detail were you capo of?

A I became capo the end of November, beginning of December, '43. My predecessor, the capo who had been over me, Bauschar, was asked by Commandant Koegel to go into the camp and work in the drafting office there because Bauschar was very much interested in the technical aspects of building airplanes. He called this Bauschar to him because Bauschar had been a former engineer in the Messerschmitt factory.

Q Do you know why you were selected as a capo?

A The next day after Bauschar went back to camp, the leader of the protective custody camp, Fritsch, suggested me as capo and after that Sunday morning, I was called upon to go to the office of the protective custody department by Fritsch and there he told me that I would have to take charge of this section.

Q Will you explain to the court just what duties you had as a capo in the Messerschmitt factory?

A As a capo my primary duty was to take care that order was kept and to take care of the work.

Q What particular detail were you capo of?

A In January, my shift, the second shift, was relieved of its duties. The shifts all alternated. One worked by day; one worked by night. The one I was on had to clear off snow. My section would be relieved and during the whole day, I would have to shovel snow with them.

Q Now during the time you were actually capo in charge of the detail in the Messerschmitt factory, by what designation was your detail known?

A My first command was called department 2.

Q Did you ever have charge of any other commando besides department 2?

A Yes, during my illness I took charge of civilian Hall C-1.

Q When did your illness occur?

A End of January, 44.

Q What was the nature of that illness?

A Pneumonia.

Q Now you stated that your detail was to shovel snow. Where was that done?

A On the streets; in the Messerschmitt factory.

Q How will you explain to the court just what commando that was? Was that the one you had in department 2 or was that the one you had in O-1?

A That was the commando in department 2.

Q How long did your detail from department 2 have to clear snow?

A I stayed with my people for 2 weeks then, after which I became ill.

Q Where did you go when you became ill?

A To the hospital.

Q How long did you remain in the hospital?

A Till the end of February, '44.

Q Upon your release from the hospital, where were you assigned? Where were you assigned to work?

A I went back to my department 2 and thereupon the commando leader, Naumde, and the chief capo, Widmann, told me I would have to take over commando O-1 because the capo who had been in charge of that had been shot 2 or 3 months ago by the leader of the protective custody department, Fritsch.

Q Where did your detail O-1 work?

A In the civilian hall.

Q And just where was the civilian hall in relation to the other halls in the Messerschmitt factory?

A It was located down to the left at the end. It belonged to the quarry. It lay near the quarry.

Q How many details worked in civilian hall?

A 6 details.

MR. MC KAY: (To Reporter) Will you mark this please?

(The document referred to was marked Defense Exhibit No. 8 for identification.)

Q I hand you a piece of paper that has now been marked for

identification as defense exhibit No, 8 and ask you what that is?

A That was the entire civilian hall with the 6 divisions.

Q And who prepared that?

A I prepared it,

Q Does this diagram which you have prepared represent the details and the places where the details worked during the period of time that you were on detail C-1?

A Yes,

Q I now hand you a pencil and ask you to mark with the letter "H" the area over which was used by your detail to work in civilian hall during the period of time that you worked there,

(Whereupon the accused indicated,)

Will you put the letter "H" above that cross? Now I notice some blocks which are on either side of this cross which you have now marked with the letter "H" and I ask you what those little blocks represent?

A They aren't blocks, they are the construction spots where the wings were made--takts, In this hall the left and the right wings were made, This one side represents the left wings and the other side, the right wings.

Q Now how many takts did you have working in that hall during the time you were capo in charge of this?

A 8 takts; all in all, 24 work spots.

Q Now will you describe for the court just what a takt is?

A The first takt had to construct the under and over ribbing and the nose of the airplane, and the second takt fitted in the fuselage on this ribbing. The third takt riveted the rump of the airplane to the rear part and the fourth takt had to rivet the covering of the front part of the airplane. The fifth takt put the final coverings on the last part of the airplane; the sixth takt put in the de-icers and the apparatus. The seventh takt put on the final plates of the fuselage, and the

eighth takt finished riveting these outer plates of the airplane which the fifth and seventh takt had put on.

Q How many men worked in a takt?

A Often 5 to 6; often 8 men. It all depended.

Q Who was in charge of each takt?

A A group leader always had two takts under his control.

Q Now while you performed the duties of capo, just what supervision did you have over these various takts?

A My supervisory duties consisted first of all of getting the materials and secondly, the tools; thirdly to keep order and fourthly, to make sure the work was done neatly and properly.

Q What type of people were employed under you in your detail—by that I mean what type of people worked on your detail?

A Russians, Poles, Czechs, French, Germans and Polish Jews, one Italian and one Greek.

Q Will you explain what connection these people who worked on your detail had with the concentration camp?

A Many prisoners were delivered as civilian workers, and others were political prisoners.

Q When you speak of prisoners, prisoners from where do you mean?

A These prisoners came from the camp.

Q Now were there any other people who worked in your detail area other than prisoners?

A The civilian masters.

Q And who was your civilian master?

A My chief masters were Behr and Tragel, and the master of the hall where I worked was master Grillmeyer.

Q I notice on this diagram that you have in your hand which I have designated as being marked Defense Exhibit 6 for identification, I notice a line which is above the last row of blocks here; will you

explain to the court what that line represents?

A The civilian hall was segregated, cut off with walls, stone walls, and other walls. There were two intermediate walls. In the middle hall the sections worked who manufactured the cooling apparatus and the over and under ailerons for the airplane, and the middle hall was cut off with another wall and beyond that wall the noses of the airplanes were made; and in the next section, C-2, the wings were finished, and there there was another wall which cut that off and the airplanes were painted there.

Q Were all of these operations completed in one building?

A Yes.

Q Will you describe for the court the physical conditions with regard to noise and the like that were present on your detail C-1?

A There were 2 or 3 compression hammers working in each takt. In the whole hall there were about 60 to 70 air compression hammers working, and 50 to 60 boring machines.

Q And what was the condition with regard to noise as a result of these machines?

A It was a terrible noise. It sounded as though they were shooting machine guns.

Q During the time that you were on this detail, how many shifts worked the detail?

A The first and second shifts.

Q And which shift was your actual detail on?

A The first shift.

Q Will you explain to the court how the shifts worked with regard to day and night work?

A The first shift worked from Monday until Friday. That was

the day shift, the other shift started working Monday evening until Sunday morning, that was the night shift; and each week they would relieve each other. The one that had day shift would take over the night shift and vice versa. Each week they would change off.

Q When you worked on the day shift, what time in the morning would you leave the camp to go to work?

A 6:30. Work began at 6:45 a.m.

Q How did you go from the camp to the Messerschmitt factory?

A It was around 6 to 8 hundred meters.

Q What means of transportation did you use?

A On foot.

Q Now will you explain to the court what checks were made when you would leave the camp in the morning with regard to the men working on your detail?

A In the morning just before 6:30, the camp eldest or the chief capo would whistle and 2004 division would have to fall in. There the people had to draw up on the roll call square according to commandos, and then the orders were given that each work detail would march off one by one and there the clerk would stand in front of the clerks office with the camp eldest and write down what the capos reported to them. When you turned off to the right after going through the gate, there was another guardhouse where the S.S. officers counted off the prisoners again, and there the capo had to report to the particular S.S. man in question--department 1, for example, all men are present. From there we marched off to the place of work and when we got to our division, we had to count off the people once again, and there I as capo had to count the people off again and report the entire strength of personnel to the quarry clerk. In the hall the counting had to be reckoned again to include the civilian personnel and people who might have come from

the hospital in order to keep pay accounts straight. Every prisoner missing had to be reported and when one arrived he had to be reported also.

Q To whom did you make these reports with regard to arrival of prisoners who did not come out with you from the camp?

A The clerk in the clerk's office of the quarry, Skomska.

Q Was that the same man who testified before this court two days ago?

A Yes.

Q Now what time did your detail actually commence its work in the hall?

A Early in the morning at 6:45 and worked until 9 o'clock when we got a 10 minute pause for breakfast, and worked again until 12 o'clock for lunch and from 1 till 5:30 again and then at a quarter of 6 there was a siren which went off and sounded from the engine house. That was the sign that we go back.

Q Now in the morning at 9 o'clock what would you get for breakfast?

A It all depended. Monday to Thursday we got 200 grams of bread with margerine spread on it, and on Friday and Saturday we got an additional sausage ration, 50 or 60 grams.

Q Will you explain to the court who had the responsibility of distributing this food ration at 9 o'clock in the morning?

A The food was gotten from the clerk's office in the quarry at a quarter of 9 in the morning. People from two warehouses would go over and pick up the bread from the clerk's office in the quarry at 9 o'clock. The bread would be there and the group leaders would have to fall in and receive rations for their group and I was the one who reported and distributed the bread to the group leaders.

(Hauser - Direct)

Q Now at 12 o'clock, who was in charge of distributing the food ration?

A The capo bore the responsibility that the food was gone and gotten, because you had to go a hundred and fifty meters to get the food. It was a crossroad; the general food was distributed there. There the commando leader distributed the food under the supervision of the clerk and chief capo and at 12 o'clock, the people from the warehouse or the assistant capo distributed the food and I stood by. I stood there and saw to it that each one got his food, and I often gave up my own food.

Q What did you get to eat for your noon meal?

A That all depended. One day we got horse turnips.

INTERPRETER: May I ask the witness what he means?

PRESIDENT: Yes, ask him.

(Thereupon the interpreter did as he requested.)

ACCUSED HAUSER: We would get porridge, and then we would get macaroni. Sometimes we would get potatoes in skins with mixed vegetables.

Q And in what form was this prepared?

A It all depended with the preparation of the food. Sometimes it was all right. Sometimes it was bad, but that wasn't the fault of the kitchen. It was the fault of the administration, and 1st It. Kirsammer, the prisoners called this man the vitamin king because he said that the vitamins in potatoes were in the peels, and he forbade anyone to peel potatoes.

Q You spoke a few minutes ago about porridge--what do you mean by that?

A That was like barley.

Q Well now, in what form was this ration at noon given to you;

was it in liquid form or in solid form?

A Then I will have to tell you that some days the food was rather thick, and there were 35 portions taken out of a kettle which was supposed to contain 60 liters. When there was cabbage, the food wasn't so thick.

PRESIDENT: The court will take a 30 minute recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the Court reconvened at 1530 hours.)

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the Court, let the record show that all the personnel of the Court, all the personnel of the prosecution are present, with the exception of Mr. Berkowitz who is absent on business of the prosecution, all the personnel of the defense, with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused and Dr. Wacker who is ill, are present, all the accused with the exception of Oswalt, Buddensieg and Olschewski who are sick in the hospital, aand whose interests are being taken care of by counsel, are present. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

JOSEF HAUSER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (CONT'D)

QUESTIONS BY MR. MC KAY:

Q At what time of day did your shift leave the camp for the night shift?

A That varied. We had to wait until the day shift had returned. The day shift, it was late, then we marched off later. Normally we left at six thirty.

Q Were the same system of checks used as you left the camp for the night shift as you have described for the day shift?

A Yes. Worse yet.

Q At what time of day did you actually go to work when your detail was on the night shift?

A A quarter of seven.

Q When did you get your first break on the night shift?

A Twelve o'clock midnight.

Q For what reason were you given a break at 12 o'clock midnight?

A People received their bread and coffee, the same food that the others had received in the block on the day shift. They received their normal food at night, five o'clock when they got up.

Q Would you get any special rations, similar to the one you received at nine o'clock in the morning on the day shift, any time during the night shift?

A We got the same bread that the day shift got at nine o'clock in the morning. I have t o mention there that during the night shift we received three or four times, double rations instead of the 25 grams of margarine, 50 grams of margarine.

Q Who was responsible for the distribution of food on the night shift?

A The capo received it and it was distributed to the group leaders at 12 o'clock.

Q How long would you have at 12 o'clock to eat your food rations?

A Form twelve to one, one hour, because during the noon hour we didn't have any air. The air was shut off from the machine house and the people had time at noon of about an hour and a half because it also took a half hour to get the air back.

Q Will you explain to the court just what the conditions of the food was as far as its edibility, over the period of time that you were in charge of this detail as capo?

A As mentioned, some days it was all right and other days it was bad. If the food was bad it was the fault of the administrative chief Kirshammer. He would inspect the food

prior to it being distributed and then approximately ten minutes before it was filled into the kettles he would throw a raw potato into the kettles and throw raw potatoes into the food so that some potatoes were not cooked or boiled. The kettles were locked for three quarters of an hour and the bad taste of the raw potatoes would go over into the food and spoil the food. Thereafter, all the capos at one time went to the factory manager Schubert and brought him some of this food and asked him if that was edible for the prisoners. They also asked him if he couldn't do anything about it. He told us capos he would do his utmost to change the situation and thereafter it changed for a while and then the food was better but it got bad again.

Q How many people were working on your detail when you first were given charge of the detail C-1?

A In February 1944, 240 people.

Q Did that number remain constant during the entire time that you were in charge of the detail C-1?

A No. It was reduced.

Q When was it first reduced?

A Approximately August or September 1944, by orders of Ober-master Dragel and Baer, it was reduced to 190 prisoners.

Q Were there ever any other reductions made in the number of personnel who worked on your detail?

A I was to reduce this detail again and Dragel reprimanded me because he told me that in Regensburg the same work was being done by 116 girls. I went to the factory manager Schubert and told him that it was impossible to reduce my detail anymore. His answer was, "It doesn't make any difference whether you need 100 or 300 people in there if you need people you will get them". That's why I was

prior to it being distributed and then approximately ten minutes before it was filled into the kettles he would throw a raw potato into the kettles and throw raw potatoes into the food so that some potatoes were not cooked or boiled. The kettles were locked for three quarters of an hour and the bad taste of the raw potatoes would go over into the food and spoil the food. Thereafter, all the capos at one time went to the factory manager Schubert and brought him some of this food and asked him if that was edible for the prisoners. They also asked him if he couldn't do anything about it. He told us capos he would do his utmost to change the situation and thereafter it changed for a while and then the food was better but it got bad again.

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always in a fight with the masters.

Q Will you explain to the court just what pay the prisoners who worked on your detail were receiving when you took over the detail first?

A When I took over the hall in February or March 7, pay was being handed out for the month of February. The pay varied from 50 pennies to two marks. I was very surprised of course, because I had been leading the section 2 for a while and I had seen what people were making there, the people there received 6, 8, up to 12 marks. I went to work manager Schubert and told him it was impossible that the people in this section of the plane factory, the most difficult section, only received 50 pennies to two marks. Factory manager Schubert told me to make up another compensation list and hand it over to him and that I did.

Q Will you explain to the court just what connection you had with the pay rolls which were made up for the prisoners who worked on your detail each month?

A I was connected with it throu h the pay section. Karl Stefflinger and Kueffner, they gave me two forms in the middle of the month to fill in the lists. One list was taken back to the pay section and one list I retained.

Q When these lists were made up, what, if any, recommendations did you make with regard to the pay of the prisoners who worked in your detail?

A That varied. For example, I couldn't classify a man who just cleaned up the hall as "A", while I would have to classify another man who was working as such.

Q What pay groups were there on that pay roll?

A "A" with a cross, "A", "B" and "C".

Q Will you explain to the court the basis that you used in recommending a prisoner with regard to the pay group that he would fall in?

A I classified my people according to how industrious they were. All of my people were industrious because if factory -- takt one did not work then takt 8 could not work. It was, of course, a matter of necessity that those people would be classified as "A" and in class "B" were those people who were helpers and the four men I had to clean the hall were classified as "C". The group leaders received "A" with a cross.

Q Will you explain to the court just what efforts you made with regard to this pay after you became capo of the detail?

A At first I went to the work manager Schubert - I went to him and requested from him people to be classified as "A" because at first I was not allowed to do that. Then I went to Stefflinger and Kueffner, I did that once or twice a week. At times I did not receive the pay rolls, they were not sent to me or else I was reprimanded for having classified my people too highly against which I spoke. That was done by the pay section. I explained to Kueffner and Stefflinger that for one thing my people had to work hard and another thing had to work in tremendous noise and that they always finished their days quota.

Q Will you explain to the court just whether the pay that you have been talking about was based upon the man's skill?

A Yes.

Q Explain that.

A The prisoners were not classified as to what profession they had, but as to how industrious they were. For instance, if a shoemaker was sent into the hall as a riveter and was more industrious than a toolmaker, the shoemaker would be classified as "A", while the professional toolmaker would not be.

Q In what form was this pay paid?

A In coupons.

Q Did you have anything to do with the actual payment of the money each month?

A In one way, yes.

Q Explain that.

A The SS official -- I don't remember his rank any more -- I believe he was a Staff Sergeant or a Sergeant -- I can't remember now -- would come into the hall with Stifflinger and Kueffner. I would have the pay list in my hand. He would call the prisoners by their number, because the list had been made up by the numbers, and to the prisoner hand over his twelve or eighteen marks, whatever it was, to him. Or, for instance, if a prisoner was in the hospital or convalescent block, or sick, and was not present, I would have to report that, and he would not receive his pay, because it would only be handed to him personally. Of course, I had to see to it that the respective prisoner would receive his money afterwards, and mostly that would be taken care of in Block 19, where each obercapo was quartered there.

Q Who was the obercapo?

A Obercapo Wittmann -- for the past two months.

Bauer, Heinrich.

Q Will you explain to the court what benefits, if any, you personally received from these pay changes from the prisoners who worked under you?

A I didn't have any advantages. On the contrary, I had more bother because I had to fight with these people in the pay section. But I didn't give in because all my people worked well.

Q Now, during the time you were capo of detail C-1, what was the condition with regard to the amount of work you were required to produce on your detail?

A We had a daily quota of nine to ten wings that was prescribed by obermaster Dragel, because every day the material would be brought for so many wings. I could not produce any more wings that I was required to do.

Q Did this quota for your detail remain constant all the time?

A No.

Q Will you explain what you mean when you say it did not remain constant?

A Yes. For instance, lack of material, lack of drilling machines, lack of tools.

Q Will you explain to the court what would happen to you when these quotas were not met?

A Yes. Had I not filled the quota, I would have been reported by the obermaster for sabotaging the work.

Q You stated that you often ran out of material. Can you explain the reason for that to the court?

A I assumed that there were not enough rail connections, because daily the material was brought in by rail or train. We didn't have any supplies but what was required for one daily quota.

Q You stated before that one of your duties as capo was to maintain order on your detail?

A Yes.

Q Will you explain to the court just what means you had at your disposal in order to maintain order on your detail C-1?

A Yes. For instance, a Pole and a Russian, or a Gypsy and a Pole, or a Jew and a Pole, or a Russian and a Gypsy never wanted to work together. They all wanted to work Russian with Russian, Pole with Pole, Jew with Jew, Gypsy with Gypsy, and that could not be done in this hall. Then, of course, fights came up among the prisoners, and I had to step in. I, of course, beat with my hand the attacker -- the one who attacked the other man. I also at one time took a rubber hose, because one of the Russians attacked a Pole with a knife. I have also beaten Germans, more so because they could understand me. I could give an example with my assistant capo, Grimm.

Q Explain that to the court.

A I was in Takt 1, and my assistant capo had Takts 5 to 8 under him. All of a sudden I heard a yelling from the front. I went there and saw that my assistant capo, Grimm,

had beaten a prisoner so severely he was blooding out of his mouth and nose. I made him account for that. At first he refused to answer. Then I took some more Russians, took him into the warehouse, and counted 25 on his buttocks. Then I reported him to the obercapo, Wittmann, and next day he was transferred to an outside camp.

Q Will you explain to the court just what means you used in administering beatings to prisoners for disciplinary reasons?

A As mentioned, mostly the hand, except for those cases I have just mentioned. Actually, I had my group leaders for that to take the work off my hands, so that I only had to supervise the hall and see if everyone was working. My group leaders would teach the new people who entered the hall. I also worked myself, and here I will have to mention a case concerning the Commandant, Koegel.

Q Explain that.

A Koegel always entered the Messerschmitt works unexpectedly and unannounced. He did that so the factory manager, Schubert, would not know anything about it. But if the work manager, Schubert, found out that Koegel and Baumgartner, or else some visitors, would come into the Messerschmitt factory, we also heard about it. And to avoid that, he always came not having been announced previously. At one time I was in Takt 3 working when the Commandant entered the hall. They evidently didn't see me. At any rate, they were looking for me and found me after a half hour later. When they found me I came down

from my Takt and made the report, as I always had to do when officers came through -- how many people were working, and what kind of work was being done. And after I did that, the Commandant beat me up good and proper. He said, "No capo should work here, he should supervise the work, because if one of the capos works, he cannot supervise, and then the others become lazy." When I told him the capo would have to set a good example, I received some more blows in the face. The same thing was with the report leader, Kuebler. He came into the hall at all times of the day.

Q What would happen when Kuebler came into the hall?

A When Kuebler came into the hall, all prisoners worked, because he was feared by everyone. He was a bestie -- a beast. I can't imagine any SS man worse than Kuebler. Even the detail leaders, as well as the factory manager, Schubert, had to be careful and cautious when he was around.

Q Will you explain to the court just what method was used to conduct inspections with regard to the work that was being performed on your detail C-1?

A Yes, I can do that.

Q Explain that.

A If inspectors came, either from Berlin or the Air Forces, all the workers had to work, of course, even if they had finished their work. Because on the average people had finished their work at from three to four o'clock, then they quit. If such an inspector came around, people would take their air compressed hammer and just hammer away on a finished part. And for each visit the hall had to be cleaned up, which

I didn't approve of, because I say where you work there is dirt.

Q What was the nationality of your assistant capo you just spoke of?

A He was a Volks-German.

Q What do you mean by 'Volks-German"?

A Evidently he is from the territory that had been taken by Germany and he had been made a German.

Q . Will you explain to the court just what the conditions were with regard to your having material to work with during the latter part of the year 1944?

A Yes.

Q Explain that to the court.

A As of September or October, the supply of materials was very bad. There were days and there were weeks that we didn't have anything to do for three or four days in a row.

Q What would happen to the men who were working on your detail during these slack periods of time?

A An order was issued by the Orderly Room of the stone quarry that each day people who didn't have any work were to be reported. This report was made, then the order was issued that so many prisoners had to be transferred to the stone quarry.

Q When prisoners from your detail were assigned to the quarry, did they ever tell you what particular detail in the quarry they were assigned to work?

A There was only one quarry left -- quarry one.

The other didn't work any more. It was out of function.

Q Did you ever hear any comment among your prisoners with regard to the conditions under which they had to work when they were sent to the quarry one to work?

A I often visited my own people.

Q Will you explain just what the talk was among your prisoners with regard to conditions under which they had to work when they were sent to block one to work?

A My men went to quarry one in the morning about ten o'clock. At noon time they returned to the hall for their meal. People came to me and said, "Capo, I will go back to the stone quarry this afternoon." Only the Jews didn't. They told me, "We like to work with 'Pipl'". The Jews came to me and said, "Capo, don't send us back there otherwise the assistant Capo there, a Russian, will kill us." I then left those in the hall to sift rivets. I went to Jakubith, who was the Capo then and reported that to him. He then reported this assistant capo, this Russian and after that, two or three days, the man disappeared from the stone quarry. He was probably sent to an outside detail.

Q When you heard the prisoners refer to a man by the name of "Pipl" do you know to whom they were referring?

A Yes.

Q Who was that?

A That was Jakubith. They called him "Pipl" because he was so short. I would also like to mention that the men had permission during the night shift to sleep if there was no work for them, even tho the detail leaders at times and also the work manager appeared. I made my report and they said, "If there is no work for these people let them sleep". That only worked during the night shift, not the day shift.

Q Now will you explain to the Court the physical condition of the prisoners who worked on your detail C-1?

A Yes. On the average I can say that most of the men were well fed except for a few. Well nourished. Those who arrived at camp in August, 1944, with the transport from Warsaw looked bad and of course I saw to it that these people were brought back to normal condition first before I assigned regular work to them. There were also people who looked bad, and these were mostly people who tried to get themselves admitted to the hospital. They exchanged their food for cigarettes or chewing tobacco. They gave bread for chewing tobacco or cigarettes. There were also prisoners who tried to get themselves a fever artificially and were not admitted, who ate chewing tobacco, and of course that was bad for such people. They had fever and got diarrhea. There were also people who cut themselves for instance, and would bandage themselves and put parts of duraluminum into their wounds. Duraluminum is a very bad poison, and in this manner I had people who were really sick but had not been admitted by the doctor the first day because he also thought they had created an artificial fever on themselves. I knew approximately, among my men, who would do that and who wouldn't do that, and would take them personally over to the hospital the next day and show them to the doctor. And of course if I would catch one doing that, I would also hit him with my flat hand in the face.

Q During the time that you were in charge of Detail C-1 will you explain to the Court just what you had to do whenever prisoners would become sick on your detail with regard to reporting them?

A When a prisoner got sick during the day shift, I would take him in the morning into the clerk's office in the quarry. That was not the case in the night shift because there was nobody there then, and then he would be taken into the hospital from the clerk's office. That was at half past eight. If he were sick, he would be accepted in the hospital; if he were not sick, he went back to his place of work. That was twice a day, once in the morning and once in the afternoon at 2:00.

Q Now when you brought your detail back to the camp when it completed its work, will you explain to the Court just what checks were made as to your number of men on your detail?

A At 5:00, I ordered my men in the hall to fall in. I counted them off, made a report to the hall clerk, and through him let the report go into the clerk's office, and if a prisoner had in the meanwhile gone to the hospital, then I would have to report that to the clerk. At quarter of six, we would be ready to leave and the chief capo and the clerk Skwaska would count us off again, and at the entrance at the gate to the quarry, the commando leader would be there and count us off again. And then at the guardhouse in the camp, the commando had to make another report as to how many prisoners were there and how many came back. For instance, if he had gone off to work with 185 prisoners and took back with him 180, he would have to report that there were five prisoners in the camp, so that he would have to know exactly at the guard house that I had accounted for all 185 of my prisoners. And then when I was in the camp, my duties were finished and I was the same as any other prisoner.

A I do not understand the question. What about the report?

Q What I want to do is to explain to the Court just what you were required to do as a capo whenever a person would become sick on your detail during the work time.

A If a prisoner felt ill during work hours, I made him lie down near the stove, but whenever an SS man or an SS officer came, I had to report to him that one or two men were missing from the work or that two or three men were lying at the stove. The Commando leader and the manager of the factory Schubert did not say anything, but when other people came in, as often happens, they would naturally scold about it, and the next day when the night shift came, I would go with the people in question into the hospital. We didn't go until 9:00 because the doctor was not there until 9:00. If we had gone for treatment before 9:00, we would have been sent away, and I personally went with the prisoners to the hospital at 9:00. For example, the male nurses and the doctors in the hospital had to see to it that people who were really ill with fever or open wounds, or with a swelling were accepted into the hospital because the official doctor would only be there at 9:00 in the morning, at 4:00 in the afternoon, and at sick call in the evening. And the male nurses in the hospital usually had the attitude that they would only accept those people who were their favorites.

Q Mr. Hauser, will you please explain to the Court what reports you were required to make whenever a prisoner became sick while working on a shift.

A When a prisoner got sick during the day shift, I would take him in the morning into the clerk's office in the quarry. That was not the case in the night shift because there was nobody there then, and then he would be taken into the hospital from the clerk's office. That was at half past eight. If he were sick, he would be accepted in the hospital; if he were not sick, he went back to his place of work. That was twice a day, once in the morning and once in the afternoon at 2:00.

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Q During the time that you were working on Detail C-1, will you explain to the Court what the situation was with regard to the prisoners being permitted to go to the latrine?

A That was also done according to rules. There were three general toilets, and one used for only pissing. As an average there were only five or six prisoners who could be in one of these toilets. My division was of course so far away from the nearest toilet that he would have to wait too long and take too much time for him to go and come back. I would have to explain an incident to the Court why this later became more strict.

Q Explain that to the Court.

A On June 12, 1944, in the night shift, a Ukranian No. 610 escaped. It was during the rest period between 3:00 and 3:15. I did not assume he escaped but assumed he was sleeping somewhere because the hall was so large and consisted of six departments, I had to search through the entire hall. We didn't find him in the halls and at 4:30 it became light. I looked through the hall at 4:30 when it was light, and since the hall was surrounded with an electric wire, I noticed there was a hole under the wire under the fence, and when I saw the hole, I knew what the score was. I didn't report the incident to the commando leader until 5:30, and Score, the commando leader, told me that I should have reported it immediately, that three hours had passed, and because he himself would get into trouble because of it because the commando leader was obliged to search through the hall every hour or hour and a half which was not the case, during the night shift. The commando

commando leader would only come through the hall once a week. I reported that to Kohr,, the commando leader; at the same time he called into the clerk, and the dog leader also appeared with the dog. We put the dogs on the spoor or clue following the track for about five kilometers and then lost track of the prisoner. The guard who had duty at that time was immediately sent into the bunker. I was interrogated during the meantime-- twice during the interval of June 12 to end of June. I cannot give more exact dates than that. The Adjutant Baumgartner interrogated me twice in his room in the administration building and he reproached me with having helped the escaped-- I helped the prisoner escape. At the end of June, I was condemned, together with an SS guard in front of an SS Court. They condemned the guard to ten years in prison and they condemned me to death, execution to take place immediately. And then I asked the President of the Court who was a Chief Judge of the SS from Nurenburg to listen to the testimony of my master, and thereupon my master Buettner and Schlemmer were called. They said that they had looked for the prisoner until 3:00 and had assumed he was sleeping somewhere, and after that I was acquitted and the guard was condemned to ten years. After that the procedure became more strict, anyone who was absent from the hall more than five or ten minutes would be reported as having escaped, and it is a matter which understood itself - It is self-understood, that if I had reported everyone in my division, then I would never have been finished with the report, because our division was located so far away from the litrine, and I thought to myself,

it doesn't matter much about turning in reports on prisoners as long as they eventually show up.

Q Will you explain to the Court just what would happen to a prisoner had you turned a report in on him as capo in C-1?

A He would have been hanged if I had reported him for such things as an attempted escape, sabotage of work, or for the possession of a knife or a cigarette lighter. That was forbidden for prisoners. We once had a capo whose name was Von Stein, a Russian officer who acted as a tip-off man for the commander and reported men to the commander and brought many a man to the gallows, and there was one master who insisted upon refusing to turn in reports on prisoners. He had one prisoner in Test 8 who had smashed the final completion of a wing mounting and he should have reported him. The name of the master was Tragel. The chief supervisors were Gebhardt and Tragel. The masters could not make any reports on their own without having the signature of the capo on them. And if they did not have these signatures, the reports would be invalid. Besides that, the master would bring the reports to Kaiser personally. We made the master realize that our division was compensated four per cent extra.

Q Will you explain to the Court just what the general relationship was between the masters who worked in the Messerschmidt factory and the capos during the time that you were the capo on Detail C-1?

A In general, I would say that a capo did not have any connection with the master. On the contrary, a capo often reported a master because it was fundamentally forbidden for a master to beat a prisoner. When a master would be reported to the manager of the factory Schubert, the master would be immediately transferred away.

Q When did the Messerschmidt factory cease to operate?

A In September 1944. The contract for work to build Messerschmidt Me 109s were stopped. They were supposed to be stopped then but that was not possible because there was shortages of material and they did not have the material to do the work. In January 1945, the contracts for work were ended.

Q What happened to the details that were working in the civilian hall when the contracts were completed?

A At the beginning, the day and night shifts still existed and prisoners had to polish the tools and keep machinery in order. The old apparatuses, the machines, were supposed to go away and be replaced with new ones in order to manufacture a new type fighter plane - Diesel - but that was not the case any more. At the beginning of March, the first, second or third of March, the two night shifts were amalgamated. There was not any night shift any more and the combined strength of both shifts, which amounted to 400, was reduced to about 150, and the rest of them sent back to the camp as unemployed and they stayed in the blocks, and the other 150 people had to clean up and take care of the tools. I left the hall March 30, 1945, and in the next days, the cops from the other division, shift in the division, took over.

Q After you ceased to work in the Messerschmidt factory, just what happened to you in the camp?

A On the 25th or 27th of March, shortly before March 30, when I left my work, I was taken into the ranks of the camp police. I do not know the exact date. After March 30, when I left the hall and didn't return, I stayed in the camp until the 8th of April, 1945, and in the morning and afternoon, we had to go out

daily to be trained, and former prisoners were referred to us as trainees. The one who trained me was Goutsch. On April 8, I was transferred out to the SS barracks, and there we had further training, and then on the 9th or 10th of April, the former prisoners in the camp police made a test march of 30 kilometers with full equipment. We had several hours rest and then came back into the camp in the evening. On the next day, the commandant, Kaegeck, called us all together in the SS roll call square, and he said, "All respect to former prisoners of the concentration camp who could cover 60 kilometers in one day". On the 15th or 16th of April, our company was taken over by the police, and we were supposed to be put into action, probably in the front. In the morning we marched away from the SS camp behind the quarry where we changed our clothes and received Italian uniforms. We received new uniforms and complete equipment for front action, steel helmets, gas masks, and whatever we would need. We were trained men. One company was picked out for Dillwanger. And Goutsch was also picked out. He was assigned to a company going to Dillwanger.

PRESIDENT: The Court will adjourn until 9:00 tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 20 September 1946).

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Case No.

~~Summary~~
~~Intermediate Military Court.~~
*General

Place DACHAU, GERMANY

Date 20 September 194 6
0920 - 1200 hours

~~Members of Court:~~

Pages 3757-3788

Prosecutor

Defence Counsel

Interpreter

Reporter

WITNESSES:

FRITZ EBERLE

JOSEF HAUSER

Accused FRIEDRICH BECKER ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, et al.

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

20 Sept. 1946 0920 hours to 1200 hours Pages 3757-3788 Incl.

T E S T I M O N Y

WITNESSES:	Direct	Cross	Redirect	Recross	Court
FRITZ EBERLE	3758	3763	3765	3765 3788	3766 3788
JOSEF HAUSER	3770	3784			

9/20/46
RAD/453
1

Camp Dachau, Germany.
September 20, 1946.

MORNING SESSION

(Thereupon at 0920 hours the court reconvened)

PRESIDANT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Col. Wilson and Maj. Seiling who are absent on business of the accused and Dr. Hacker who is sick. All the accused are present with the exception of Risbusch, Buddensieg, Oswalt, Olschewski, Jakubith and Pinter who are sick in the hospital, Wurst who is at the dentist's office, and Sens who is in the bunker. The interests of these accused who are absent are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

(Thereupon the accused Josef Hauser resumed the witness stand)

PRESIDENT: Mr. McKay.

MR. M'KAY: May it please the court, I would request at this time the opportunity of introducing a witness by the name of Eberle who has been removed from the tuberculosis sanatorium in Garmisch and it is necessary to use him as quickly as possible so that he can be returned to the hospital because of the danger to his health. I therefore respectfully request the court for permission to have the present accused step aside and this witness be called to testify and then have the accused resume the stand when we are completed with the witness.

PRESIDENT: The court will grant the request.

9/26/46
RAD 453
2.

M. [illegible] Y: [illegible] Fritz Oberle.

[illegible] these will leave the stand for the time being and return to the dock.

(Thereupon the accused Josef Hauser resumed his place in the dock)

[illegible], called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

M. [illegible] Y: This witness is being introduced on behalf of the accused [illegible].

DIRECT EXAMINATION.

QUESTIONED BY M. [illegible] Y:

Q Will you state your name to the court.

A Fritz Oberle.

Q Will you spell it, please.

A O-b-e-r-l-e.

Q Where are you residing at the present time, Mr. Oberle?

A In the hospital in Ormaisch.

Q Are you at present a prisoner of war?

A Yes.

Q Are you in the custody of the American authorities?

A Yes.

Q Are you being held by the American authorities in any way in connection with war crimes or suspected war crimes?

A I am not clear on that point.

Q Are you being held because of your connections with Flossenburg Concentration Camp?

A Yes.

M. [illegible] Y: May it please the court, I think it would be advisable to advise this man of his rights because of the fact that he is being held as a witness with the possibility of future action against him.

[illegible]: (to witness) The court desires to advise you with respect to your rights. If any question of an incriminating

(Oberle-direct)

nature should be asked ou ;ou have the right to ask the court to refrain from answering a question of that nature. Do you understand?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. MCKAY:

Mr. Eberle, were you ever a prisoner in Flossenburg Concentration Camp?

A Yes, only prisoner.

When did you arrive at Flossenburg Concentration Camp?

A The beginning of December, 1942.

When did you leave Flossenburg Concentration Camp?

A The end of April, 1945.

During the time you were a prisoner in Flossenburg Concentration Camp did you ever live in Block 6?

A Yes, the last year.

When did you move into Block 6?

A In the summer of '44.

How long did you continue to live in Block 6?

A Until the end.

Which wing of the block did you live in?

A B wing.

During the time that you were living in Block 6 did you ever come in contact with a fellow prisoner by the name of Retzlaff?

A Yes.

Will you explain to the court where Retzlaff lived during the time you knew him in Block 6.

A Yes, in wing B, also.

During the time you lived with Retzlaff in Block 6 did you have an opportunity to see how he treated fellow prisoners?

Yes.

Q Will you explain to the court just what you saw with regard to Retzlaff's treatment of fellow prisoners.

A Yes.

Q Will you explain that to the court.

A I have noticed that Retzlaff often received visits from young Russians or young Poles during his off-duty hours, people who worked with him. Quite often he would not eat his own bread or else he would organize some soup food for these young prisoners so that he could give it to them.

Q What do you mean when you say the word "organize"?

A When I say the word "organize" I mean that he was running around the camp sometimes for over an hour to get some surplus food from a good friend or some other people who had food left over and he would swap that against cigarettes.

Q Did you observe Retzlaff's conduct with regard to prisoners of foreign nationality actually in the block itself?

A Yes. In Christmas, 1944, he received a miss/package from Coblenz. The package arrived in the afternoon and he distributed this package among everyone who was present in that room, it didn't make any difference of which nationality the people were or where the people were, whether they were sitting at the table or where they were in the room. He distributed the whole package except for a little bit that was left over that he kept.

Q Do you know whether Retzlaff had any nickname among the prisoners in Block 6 while you lived with him?

A Yes, he had a brother, I believe in Coblenz, and he was a Catholic priest, his name was Father Fridolin, and in this connection several used to call him Father Fridolin.

Q Do you know what Retzlaff's reputation was among the prisoners who associated with him in the camp during the time that you knew him?

A His reputation was not bad, I should like to say it was good. Proof for that is at hand. I used to go with him through the camp on Sunday mornings and while we went through the camp there were lots of people who came towards him and gladly greeted him, Russians or any other foreign nationalities. I told him that he knew quite a few people and he would say yes, these people are from this work place and these are from another work place and so forth.

Q Did you ever observe Retzlaff having any particular difficulties with any prisoners in Block 6?

A I can't state anything about difficulties and I don't remember any other incidents.

Q Mr. Eberle, what color triangle did you wear while you were in Flossenburg?

A Green.

Q Will you explain to the court just why you were given a green triangle when you went to Flossenburg?

A Yes, I should like to say that the details can only be given by the camp administration. I can only describe the circumstances.

Q Describe the circumstances.

A I was not in the Party nor in the SS, SA, NSV, or any other organization. I did not take part in anything, I was more or less of an outsider, and in the Spring of 1939 I was given a trial.

Q What was that trial for?

A I was accused of embezzlement of 170 marks. At that time

there existed a law,activated by Hitler, the so-called "assumption law". The court, in other words, could convict a man by the mere assumption of his aptitude to commit any misdemeanor or crime---not by the actual facts but just by the assumption. The proof showed that it was not an embezzlement of those 170 marks but a mere loan. However, because of this assumption law I was sentenced to two years imprisonment.

Q Did you serve two years in prison?

A Yes.

Q Then how did you get into the concentration camp?

A Right after that I was taken back---I was taken to the police headquarters in Chemnitz and there I was told that I was to be sent to the concentration camp Buchenwald. Upon my question that it was impossible to send me there because I was not a habitual criminal or any such thing the Gestapo man told me "We know you are not a criminal. However we look at you as politically unreliable".

Q Had you ever had any other convictions prior to the one you just described to the court?

A No. Yes, fines I had for traffic violations.

Q Had you ever had any other conviction which involved a prison term of any kind?

A No.

Q Mr. Eberle, did you observe how Pauser spent his spare time in Block 6?

PROSECUTION: Who?

Q Retzlaff---pardon me ---Retzlaff spent his spare time in Block 6?

A Yes. Yes, mostly he would talk to me at the table. We had, mentally, something in common. We discussed philosophy or things of that nature. But during the last period he studied languages, Russian or English, I don't know exactly. He would not only do that at night, he would start in the morning, 5 o'clock.

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Q Mr. Eberle, do you think you could recognize Mr. Retzlaff if you saw him again?

A Yes.

Q Will you look over the men sitting in the dock behind me and see if you recognize the man you knew of as Retzlaff.

A Yes. There (indicating)

Q Point him out to me.

(Thereupon the witness indicated)

MR. M'KAY: Let the record show that the witness has identified the accused wearing #37 as Retzlaff. You may cross-examine.

PRESIDENT: Cross-examination.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q What is your nationality?

A German from Saxony.

Q What is Retzlaff's nationality, if you know?

A I only know that he is from Coblenz.

Q What detail did Retzlaff work on?

A He was in the Messerschmitt, the disassembly section.

Q What detail did you work on?

A I was in the wing section.

Q Who was the boss of that detail?

MR. M'KAY: That is objected to as going beyond the scope of the direct examination.

PROSECUTION: May it please the court, I have certainly the right to find out where this man worked.

PRESIDENT: Objection overruled.

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THE WITNESS: You mean C-1? Where I worked?

QUESTIONS BY THE PROSECUTION:

Q Did you work on C-1?

A Yes.

Q Who was the capo of that detail?

A Hauser was capo of C-1.

Q Did you have an opportunity to observe how Retzlaff treated the prisoners that worked for him?

A No, I didn't have the opportunity.

Q Did you ever see this assumption law?

A No, I only read about it in the newspaper.

Q Did you ever notice any old Russians or old Poles going to Retzlaff?

A Old Russians?

Q Yes.

A He actually didn't have any old Russians there. Those were all young men we had.

Q Did you ever ascertain where this assumption law was found?

A No, I didn't do that.

Q Do you know whether or not it was a decree?

A I can't make a legal difference there, I don't know whether it was a decree or a law or a directive.

Q But the only information you have about it is what you saw in the newspaper; is that correct?

A Yes.

Q No further questions.

PRESIDENT: Redirect?

THE WITNESS: I have to add a nothing. I forgot to mention something about Retzlaff.

PRESIDENT: Just have the witness speak up louder so we can hear him. When he is talking to you he must also speak loud enough

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so everybody can hear him.

INTERPRETER: Yes, sir.

PRESIDENT: We don't have any private conversations. Mr. McKay.

REDIRECT EXAMINATION.

QUESTIONS BY MR. MCKAY:

Q You stated that you had something more with regard to Retzlaff. Will you explain that to the court.

A I remember that Retzlaff at one time said about a young Russian: "Whenever we get alive out of this camp I will take this young man to Coblenz with me because my brother wants to adopt him." In this connection he showed me letters written by his brother in which his brother had already approved of that.

Q During the time that you were on trial before this court under the assumption law was the actual law ever read or explained to you?

A No.

Q That is all.

PRESIDENT: Recross?

RECROSS EXAMINATION.

QUESTIONS BY THE CONVICTION:

Q As a matter of fact, you don't know whether there was such a law, do you?

A To quote the judge at that time: "According to the evidence we can not convict you. However, according to the assumption law we assume that you are capable of committing such a crime at a later time."

Q What was that judge's name?

A That I don't know.

Q No further questions.

(Eberle-recross)

PRESIDENT: Any questions by any members of the court?

EXAMINATION BY THE COURT.

QUESTIONS BY MAJ. LANHAM:

Q Mr. Eberle, I understood from you in your direct examination that you lived in Wing B of Block 6, where Retzlaff lived, from the summer of 1944 to April, 1945; is that correct?

A Yes.

Q Did you know two Polish Jews by the name of Goldberg and Herzenberg?

A No.

Q Did you ever hear or know anything about Retzlaff beating to death two Polish Jews in January or February, 1945?

A No, I did not see it nor did I hear about it.

Q How often did you see Retzlaff in January and February, 1945?

A Daily, after we had returned from work.

Q Can Retzlaff speak English, do you know, or understand English?

A I believe a little.

Q That is all.

PRESIDENT: Any further questions by any member of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Mr. Eberle, what was your occupation?

A I was a teacher in Saxony.

Q In a university?

A No, I went to a teachers' seminar.

Q What subjects were you teaching?

A In all subjects of science.

Q No further questions.

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EXAMINATION BY MAJ. I. [illegible]: (continued)

Q How long did you live in Wing B? You say you lived in Wing B all the time but how many people lived in Wing B at the time you were there?

A That increased towards the end. I believe towards the end we had 500 people in each wing.

Q How many people did you have there in January and February, 1945?

A That I can't state. Very many but I don't know how many.

Q What percentage of those people would you say were Polish Jews?

A According to my estimation, very few.

Q If there had been two people by the name of Goldberg and Herczberg do you think you would have known them?

A Not by name but probably by their faces.

Q Did you ever hear of any Polish Jews being beaten to death by anybody in January or February, 1945?

A No. Never.

PRESIDENT: Any further questions by any members of the court?

No by LT. COL. BURGHAM:

Q Did you see a fight between Petzaff and a Russian?

A No.

Q Did you hear of it?

A No.

PRESIDENT: Any further questions by any members of the court? Apparently not. Redirect?

MR. [illegible]: Nothing further.

PRESIDENT: The court understands that the defense is finished with this witness?

(Recess-court)

MR. MURRAY: Yes.

PRESIDENT: The witness will be excused.

PROSECUTION: Just a minute. I have a few questions.

PRESIDENT: Go ahead.

CROSS EXAMINATION. (cont'inued)

BY THE PROSECUTION:

Did you hear of every case where a prisoner was beaten to death in Flossenburg?

A If it was in our vicinity, definitely.

Q What do you mean by "in our vicinity"?

A In the block or in the place of work.

Q How many people were beaten to death in January, 1945?

A That I can't say.

Q How many were beaten to death in the place of work in January, 1945?

A Where I worked, nobody.

Q But about in the Messerschmitt works?

A I don't have any oversight for that. I don't have any idea.

Q Are your answers the same for the months of February and March, 1945?

A Yes.

PROSECUTION: No further questions.

MR. MURRAY: Nothing further.

PRESIDENT: Any further questions by any member of the court?

EXAMINATION BY THE COURT (continued)

QUESTIONS BY LT. COL. ZIYLY:

Q I understood you to say that you would know definitely if anyone were beaten to death; is that x true?

A Yes.

Q How many cases do you know of people who were beaten to death

(Eberle-court)

(Eberle-excused)

A I don't know of any case that someone was beaten to death in Flossenburg. I heard about hangings.

Repeat that.

A I don't know of any case of someone having been beaten to death in Flossenburg.

Q I understand you don't know of any particular case in the Flossenburg Camp where anyone was beaten to death?

A No, I don't know of any x definite case.

Q So far as you know, then, no one ever died from a beating in Flossenburg; is that true?

A According to my knowledge, not.

Q No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. Prosecutor?

PROSECUTION: No further questions, sir.

MR. M'KAY: Nothing further, sir.

PRESIDENT: The witness will be excused.

PROSECUTION: May it please the court, I would like to have this man held until noon time anyway.

PRESIDENT: The court will grant that request.

MR. M'KAY: If you will notify me when you are through so that he can be returned.

PROSECUTION: Yes.

(discussion off the record)

MR. M'KAY: Will you advise Mr. Eberle to remain in the office available for the prosecution until noon.

PRESIDENT: The court will take a half an hour recess.

(Thereupon at 0955 hours the court recessed).

(Eberle-excused)

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(whereupon at 1040 hours the court reconvened)

PRESIDENT: The court will come to order.

[illegible]: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Col. Wilson, and Maj. Gerding, who are absent on business of the accused, and Dr. Becker who is ill. All the accused are present with the exception of Olschewski, Oswalt, Buddensieg, Jakubith, Fisbusch, Lenz and Hinter who are sick. The interests of those accused who are absent are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: The defense. Mr. McHaney.

MR. MCHANEY: Hauser will return to the stand.

(Thereupon the accused Josef Hauser resumed the stand)

PRESIDENT: The court understands, Hauser, that you are resuming the stand and testifying in your own behalf on a voluntary basis. Is that correct?

ACCUSED HAUSER: Yes.

PRESIDENT: In other words, you desire to continue to testify in your own behalf?

ACCUSED HAUSER: Yes.

PRESIDENT: Proceed.

JOSEF HAUSER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. MCHANEY:

Mr. Hauser, yesterday you mentioned a man by the name of Koutsch who was your trainer. Can you spell that name?

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2. K-a-u-t-s-c-h.

Mr. Hauser, during the time that you worked in the Messerschmitt factory did you ever know of Maurer's detail which worked in the Messerschmitt factory.

A I didn't know the work outfit of Maurer which worked in the Messerschmitt factory. I only knew his work detail which was active in the wood yard, because I had business with this work unit every day.

Let the record show that the accused Jakubith and Lisbusch have returned to the dock.

During the time you worked in the Messerschmitt factory did you ever observe that Maurer's detail ever worked in the Messerschmitt factory?

A Yes.

Explain to the court just where they worked in relation to the Messerschmitt factory.

Basically the work unit of Maurer was divided into two work units and Maurer was responsible for them going off to work and marching back from work and responsible for the noon meal, and the second work unit I mentioned was a transport outfit. This transport commando had an assistant capo whose name was Tuchlmeier.

Which of these details was known as the transport detail while you were in the Messerschmitt factory?

A The work unit where Tuchlmeier was the assistant capo—that was the transport detail.

Do you know how the prisoners who worked on Hauser's detail were selected? Pardon me—Maurer's detail, I mean.

A This commando was the same commando as the one in the Messerschmitt factory. The only difference consisted in the fact that this was a wood commando and the other was a transport commando.

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o you know actually how the prisoners who were detailed to work on these commandos, the transport and the wood detail, were actually selected?

They were picked out the same as the people who had to work in the Messerschmitt factory. They had to do the work also. It was the same detail.

Will you explain to the court what relation the obercapo Ittmann had with the detail which Maurer was in charge of?

The transport commando, the transport detail was under the supervision of chief capo Ittmann only.

Did this set-up of Maurer's detail continue all during the period of time that you worked in the Messerschmitt factory?

Later on, there were these two details. They were separated. The only time the two details were put together/was when they marched in one group to work and marched back from work. When they were working they were separated.

Will you explain to the court whether you ever had any relation with Maurer's detail during the period of time that you worked in the Messerschmitt factory.

I had daily contact with the detail in the wood yard and also with the transport commando where Tuchlmeier worked. I had connections with Maurer in the morning shortly before work ended at night and I had contact with the transport detail because these people brought me the work material every day.

Do you know whether any of the prisoners who were working in the Messerschmitt factory were ever sent to work on this detail under Maurer for any reason?

Yes. But not in the detail of Maurer but in the detail which Tuchlmeier had under him.

Will you explain that to the court.

The beginning of June or July, I don't know exactly, the chief capo Tuchlmeier arranged it that certain people would come into the transport detail because they were to be punished for one

reason or other. It was not exactly a punishment company but it was the transport detail. The people would come to this detail for one or two days up to eight days and chief capo Wittmann saw to it that the people were exposed to all kinds of weather, whether it was raining or not, although the people were glad to work in the open air in the summer and from early spring until Fall.

Q During the time you were in the Messerschmitt factory - will you explain to the court just what the situation was with regard to prisoners ever making complaints about working on Maurer's detail.

A I can't remember any complaints. I only know that eight o'clock in the morning the coal would be given out and the different departments would come and get it and the people in the wood yard would have to fix up the coal for distribution and they would stand around in the wood yard waiting for it. The same was true for the transport detail. The people would transport material from one hall to the other when material was available. When there was none available they would be idle.

Q Mr. Hauser, during the time that you were a prisoner in Flossenburg did you ever know the accused Matzke?

A Yes.

Q Will you explain the nature of your acquaintance with Matzke to the court?

A I can't say that I had any relations with him but I can explain how I learned to know Matzke.

Q Explain that to the court.

A Matzke was in the second shift, I didn't see him all week long, but in September Matzke got sick and stayed in Block 4. His sickness got worse and worse and one evening four people, including myself, the former witness Eberle, and two Russians, carried Matzke into the hospital with a blanket. It must have been in the middle of October, 1944 and I didn't see Matzke until the middle of December, 1944. Then he stayed one or two days in Block 4 again

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and then he told us he was being transferred to Block 1, he would have to work in the kitchen. He came to Block 4 every day and brought food also. I must mention one thing, that he never gave food away to any German, he always said to the Germans "You can look after yourself", and whatever he brought he gave to the foreigners. Matzke stayed in the kitchen until the 15th of March, 1945. Then he was relieved because of his illness again, he had severe rheumatism. He stayed in Block 12---in February he had been transferred from Block 1 to Block 12, and he came back to Block 4 around the 25th or 27th of March. I know the date because on that date I myself had received a uniform.

In what block were you living during this period of time.

Block 4, wing B.

During the time that you were in the stone quarry did you ever come in contact with a prisoner by the name of eilbach.

A. Not personnally in the quarry; only in the camp.

Q. Explain your acquaintance with Mr. eilbach in the camp.

A. Before the Messerschmitt factory had been erected the quarry worked on Saturday only until 12 o'clock and then we were brought into the camp and in the afternoon the word went out "Who would like to work voluntarily?", and then of course almost everybody reported and the reason was that everyone wanted to see if he could get something for himself. eilbach was the capoldest when I got to the camp and later he became chief capo and as chief capo he had the interior of the camp under his command. Saturday afternoon those who reported voluntarily would go and fetch potatoes and the potatoes would be at the riding course which the SS had for horses. There the potato warehouse stood and we had to cart the potatoes back into the camp. Naturally the prisoners took advantage of the opportunity and took all the potatoes they could, they would steal all the potatoes they could and fill their pockets full of them. eilbach knew what was going on, he saw it all, and he made it clear

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to us we should not let ourselves be caught by the SS because the SS could observe us on the way home by looking out of the officers' quarters. He said that if we were caught not only the one who was caught stealing the potatoes would be punished but he himself would not be so pulled. [illegible] in the punishment company September, October, '42. The punishment company was suggested. At that time I also had a meeting with Heilbach. We would have gone to the dogs because the food in the punishment company was reduced, we didn't get food rations, and Heilbach always brought food to us secretly to Block 14.

[illegible] this particular detail that you used to work on [illegible] voluntarily, to get the potatoes, what was the [illegible] of the people who worked on that detail [illegible] the minority were Russians; although they were of all nationalities, and in the punishment company also most of the members of that detail were Russians and Poles.

[illegible] explain to the court just what Heilbach's treatment to [illegible] of those people from other nationalities who worked on this detail on Saturday. [illegible] The answer is what I've got. The main thing was that the SS should not catch us.

[illegible] how about his treatment of the foreign prisoners who were in the punishment company with you? [illegible] the same as we. He didn't have anything to do with the work in the punishment company; it was merely up to him to see to it that the punishment company got more food. I will have to tell you one more incident in my report to Heilbach. I was one of C-1. The work unit from Wuelzen came back to Flossenburg and those who came back from Wuelzen would have to work in back of the kitchen. Block 12 was erected there and there were former Russian prisoners there who had earlier worked with me in the stone cutters' pavilion and they begged me to let them work under me in the hall where I was to po

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and I said I would do what I could and then I went to Friedrich Hecker in the work commitment office and I told him about it and he told me "If you need them you can have them" and the next day they received new clothes, they had been wearing stripes with a large "M" on their back and they received civilian clothes, and I took them over to my hall and put them to work. I called over a Russian interpreter who could speak German and I asked why they were wearing this large "M" on their back and he told me about this incident in Muelsen. On their way between Muelsen and Dresden, shortly before Dresden, there were some airplanes had to be delivered there and Russian prisoners wrote something in Russian on the fuselage of the planes and the message on the fuselage was that in Dresden they would make a revolt and that the people in Muelsen should abet the revolt and on the fuselage was written that the electric plant in Dresden would be destroyed and for that reason the outfit in Muelsen would also have no electricity, the lines would be broken. And I heard that they had set the dormitory in Muelsen on fire. They slept down below and worked up above. I am only telling you what these five men told me. Heilbach then entered the picture and called the firefighters and in that way the fire was put out and the revolution was quelled and thereafter the entire work unit was sent back to Flossenburg and there were many of them, perhaps 60 to 80 men, who received burn injuries and they remained in the convalescent wards in Flossenburg and Heilbach had to go to the hospital because of severe smoke poisoning.

Q Mr. Hauser, will you explain to the court just what clothing you were during the time you were a prisoner in Flossenburg?

A When I came to Flossenburg I wore the prisoners' stripes. There were summer clothes and winter clothes. In the summer we had overalls and in the winter we had wool clothing. In '43 they started using civilian clothes and on the civilian clothes in the front were the initials KL, which means concentration camp, and in the back a stripe and on each side of the back another KL---concentration camp ---

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nd also tripes on the legs. Then t e order came out, the blockeldest read it to us, that anyone who had double clothing rations could go to the clothing storage room and get them and wear them or if he h d any at home he could rite for them and bring them to the camp but when the clothes arrived at the camp they would have to be marked with the initials KL for concentration camp.

Mr. Hauser, will you explain to the court just wh t beatings you le rned of by former prisoners while you were a prisoner in Flossenburg.

A There were certainly prisoners who were beasts, who were bad, who were beasts. There was a certain Rochel and the chief capo Messler who was called "Salad , "Salat". He was called "Salad" as a nickname because he ate lettuce, he liked to eat lettuce so much, and there was a certain Bishoff and also my capo Langwagen, and Jupelle. They were the ones who beat me severely. They beat me, especially Rochel. In '42 Rochel had an accident in the quarry. hen he got out of the convalescent ward out of the hospital he was wild, he was like a tiger. In '42 Rochel tried to chase me into the guard fence, into the wire, but the guard who had the station #13 didn't shoot, he came down from his station and brought me into the camp and for that reason the leader of the protective custody department Fritsch locked up the guard in the ex bunker.

Q Will you exclain to the court just wh t you heard while you were a prisoner in the camp in regard to prisoners beating other prisoners so severely that they died as a result of it?

A That never happened among the prisoners themselves but I know of one case which probably took place in the Fall of 1944. nd that took place between clock 4 and 11. It was evening, after the roll call. The bl ck m rket was laid in the area of Block 1, 12, 2 and 3. There were at least 15 to 200 prisoners there. There was a Czech, he went up the stairs, there were at least twelve stairs,

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...nt he tried t... the m... for hi...self, he p...ve a Feuerhaun such a ...pod t... t... ...k... ...n pulled down the stairs and broke his neck and died, he was immediately dead. This rumor, the rumor of this incident, ran around the camp like wildfire immediately. The Czech w... immediately locked up in the bunker and I don't know what happened to him.

Do you recall any other incidents of that nature that occurred during the time you were a prisoner in Flossenburg?

A Yes. Especially in the quarry, Quarry #1, with Hochel. Hochel sent into beat the prisoners severely and after he got out of the hospital he chased prisoners into the wire. He never a prisoner went into the wire the entire hall, the entire factory, the entire stone cutters' division, had to come out of the factory and lie down on their stomachs for they had to lie on their stomachs until the commander of the camp, the doctor, and the leader of the protective custody department appeared on the scene and took pictures, and then the dead man would be carried away and after that we had to go back to work. Then I know of an incident with Niehoff in 1944, it was around April or May, he beat a man to death. He was relieved of his duties and Hoerner became his successor then. And I know of another incident in February, 1944, on the street Buchenbuch. There a capo whose name was Zimmermann beat two Jews to death and in the evening the capo went to the blockeldest in Block 20 and said "I got two dead men. Your men beat them to death." And then Kathoi must have come to the scene---he was the campeldest---the blockeldest in 20 reported it to the campeldest---and then Kathoi the campeldest said to capo Niehoffer "Hut, you beat people to death! Then you eat their bread and go to sleep". The hospital eldest called Willi Pickert reported the incident to Major Schnabel and then Maj. Schnabel made a report and as a result of that the party in question, Zimmermann, was transferred, I don't know where to. I can remember another

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incident in March, 1945; it was in regard to alcohol, fuel for airplanes, or something like that, it was brought away from the Scharlach Hall. There were four men involved in that. Petzlaff was one of them. There was one German that was named to me, they called him Midget because he was so small, he was like a dwarf, a Russian and a Gypsy. These people were brought to the clerk's office in the evening three or four days after the incident and were beaten severely. The alcohol had caused the death of several people through poisoning. After they had been beaten in the clerk's office they were introduced to all the blocks and these four people weren't allowed to go to work, they had to break up stones in Block 24, the disinfection block. That was the commando of Lipinski, he was the last chief camp. And one time when I had the night shift at four o'clock I visited them when they were breaking stones and Lipinski was standing there and he said to the four men they had better hide because he didn't want the SS to find out they were in such a condition that they could work. Lipinski was always human toward these four people and always saw to it that they were concealed because Adjutant Baumgartner made daily inspections of these four, and he placed a guard to notify them in case an SS suddenly came into the camp so he would have a chance to hide the people. Just before the evacuation the blockeldest Max Jakob gave a noose to the little midget and said to him he had better hang himself and after that the little fellow went out of the window of the latrine and let himself be shot by the guard, he escaped through the window of the latrine and let himself be shot by the guard.

Q Mr. Hauser, you spoke about your factory manager by the name of Schubert. Have you ever seen Mr. Schubert since you left Flossenburg?

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A He is sitting here in the dock.

Q Will you point him out to the court.

#44. I know almost everybody here.

THE MASTER: Just a minute. 44?

A 44.

QUESTIONS BY MR. MURRAY:

Q Do you know what happened to the man by the name of Maurer? Do you know what happened to the man by the name of Maurer that was in charge of the wood detail?

A He is sitting in the dock just the same as I am.

Q Will you point him out to the court.

#27.

Q Do you know what happened to Watzke?

A He is also sitting here in the dock.

Q Will you point out Watzke to the court.

#26.

Do you know what became of Lipinski?

A He is also here.

Will you point him out to the court.

A He is still wearing the uniform that he wore in the camp.

Q Do you know what became of Muthoi?

A He is also sitting here.

Q Will you point him out to the court.

#25.

Do you know what became of Heilbach?

He is sitting here exactly the same as I am. #48.

Do you know what became of Retzlaff.

A He is also sitting in the dock.

Q Will you point him out to the court.

A #37.

MR. MCKAY: Let the record show that the accused Hauser has identified the accused wearing #44 as Schubert, the accused wearing #27 as Maurer, the accused wearing #26 as Matzke, the accused wearing #23 as Lipinski, the accused wearing #25 as Mathoi, the accused wearing #48 as Heilbach, the accused wearing #37 as Petzlaff.

Let the record show that the accused Minter has returned to the dock.

Q Is there anything else that you want to tell this court about your conduct in Flossenburg?

A I can tell you one more incident in which I was connected with Major Berger.

Q Explain that.

A The Germans were not allowed to go to sleep in the night shift in January '45. The word went around that people were coming from the administration building to introduce a new SS man to us. About an hour later I came out, went up to the room, and there were two SS men in the room and one of these men was the major in the SS, Berger. Berger checked the documents and asked whether we were soldiers, whether we were soldiers, all of us Germans, and whether we wanted to get out of the concentration camp, and Berger said it is tragic that Germans were ever locked up in concentration camps and they would have to stay there for so long and he would do his best to see that we got out of the concentration camp. I didn't know that Berger belonged to Flossenburg, I thought that he came from a higher authority in Berlin. On the 16th of April I saw Berger for the second time. I didn't have anything personal to do with him.

The transport of Jews left early in the morning, 8 o'clock or 8:30, and Berger was the leader of this transport. I heard Berger give the instructions to his guards, I was standing one and a half meters away from him. There were around 80 to 100 guards. Berger said to his men: "Well, now, we have to accompany this transport. It is going from Flossenburg to Dachau and on from Dachau. You are the accompanying guards. There will be no shooting. When a prisoner becomes sick and can't keep the pace, can't walk after we have left the train, then he will be given over to the civilian population. If anyone gets sick they will be put off at the first station and be given to the civilian population and they will be asked to take care of the prisoners". And then I heard him say to his guards: "If I find out that a guard has done any shooting I will personally call him to account because these prisoners are human beings like we are." That was the speech which Berger gave his guards.

Q Have you ever seen this Maj. Berger again?

A Here in Dachau.

Q Do you know whether he is one of the accused?

A Yes, he is sitting in the dock.

Q Will you point him out to the court.

A #3.

MR. M'KAY: Let the record show that the witness has identified the accused wearing #3 as Maj. Berger.

PRESIDENT: The court will take a short recess.

(Whereupon at 1135 hours the court recessed)

(Whereupon at 1143 hours the court reconvened)

PRESIDENT: The court will come to order.

MR. M'KAY: If it please the court, the counsel Mr. Hall has some questions he would like to ask the witness.

(Hauser-direct)

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PRESIDENT: Mr. Hall.

MR. HALL: If it please the court, this is in the nature of direct examination in connection with the accused Gelhardt.

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Mr. Hauser, you have indicated that in the course of your confinement at Flossenburg you learned to know who the various blockfuehrers were; is that correct?

A Yes.

Q Do you know an accused here by the name of Gelhardt?

A I learned to know him in Nottenberg when I was arrested by the Americans.

Q Can you identify him if you see him again?

A Yes.

Q Will you please do so.

(whereupon the accused Hauser indicated)

MR. HALL: Let the record show that the witness has correctly identified the accused wearing #13.

Q When was it you said you first became acquainted with him?

A I first saw him in '43 but merely from a distance. He was a dog leader.

Q And when was it you next saw him?

A In Nottenberg.

Q When was that?

A '45.

Q What do you now understand to have been his status in Flossenburg, that is, a prisoner, an SS man,or what?

A When I saw him in '43 for one time he was a leader of doge.

Q Was a leader of dogs a prisoner, an SS man,or what?

A An SS man.

MR. HALL: That is all, sir.

(Hauser-d rest)

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PRESIDENT: Has the defense anything further?

MR. M'KAY: You may cross-examine.

PRESIDENT: Cross-examination.

CROSS EXAMINATION.

QUESTIONS BY THE PROSECUTION:

Q Hauser, would you by chance know who it was that paid the money that was received by the prisoners for the work performed on your detail?

A Stefflinger, and after that Kuefner, and later on Haupt, a sergeant or a top sergeant, and after that it was Funkel.

Q Isn't it a fact that they merely distributed the money?

A I can't say that. I only know that these two SS people were in the office in the administration building.

Q You stated that you had a lot of dealings with them, did you not?

A With Stefflinger and Kuefner.

Q Do you know whether or not the Messerschmitt people furnished the money that was distributed by Stefflinger and Kuefner?

A I don't know that.

Q Were you curious to find out where this money was coming from?

A I didn't have any insight in that.

Q I didn't ask you that. I asked you were you curious to find out about that?

A No.

Q Did you ever hear who it was that furnished the money with which the prisoners were paid?

A I assumed that it came from the Messerschmitt factory.

Upon what did you base that assumption?

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A Because we were working for the Messerschmitt factory.

Now, these classifications that you had. "A", "A-cross", "B" and "C", were made by whom?

The cap with the master of the hall.

Q What was the pay per week of a man classified with an A-cross?

A 25 marks.

Q Per week?

A Per month; monthly.

Q And what was the pay for a man who received the classification of "A" per month?

A 18marks.

And for a man who had a classification of "3"?

A 12 marks.

Q "C"?

A 6 marks.

How much money did you receive per month?

A 30 marks.

Q And this man Fuchs received how much per month?

A 18 marks.

Q Wasn't he a group leader?

A He became a group leader the end of May, the beginning of June.

Of what year?

A '44.

And he worked thereafter on that detail as a group leader for how long?

A Either the end of August or the beginning of September.

He was in the classification of A-cross, was he not?

(Mauser-cross

A Not all group leaders.

Q Do you mean there were further divisions among group leaders?

A It was up to the case to determine the classification of the group leaders.

Q I didn't ask you that. Answer my question, please.

A What was the question?

(whereupon the question was read by the reporter)

A.C. HAUSER: They got the same pay as the group leaders.

Q And group leaders were "A-cross", were they not?

A As I said before it was up to the cape to determine that. There were group leaders who didn't get "A-cross" pay.

Q Johann Fuchs had a classification of "A-cross", did he not?

A Fuchs got 18 marks. His classification was "A". At first he got 12 marks and at the end 15 marks.

Q Didn't you testify that group leaders received a classification of "A-cross"?

A I just said it was up to the cape. If a group leader were industrious he would get the classification of "A-with-a-cross" and I did testify yesterday that group leaders as a rule would be classified "A-with-cross", but it was still up to the cape.

Q You didn't say anything about "as a rule" yesterday, did you, Hauser?

A Yesterday I said that group leaders got a classification "A-with-a-cross", the industrious workers got "A", the mediocre workers got "B" and the lower ones got "C". I didn't go into details about that yesterday, I wasn't asked about it. I merely gave a general classification of the pay levels yesterday.

Q I again ask you whether or not there was a further classification of group leaders.

MR. M'KAY: That is objected to as repetition.

PROSECUTION: He never has answered the question, may it please the court.

PRESIDENT: Objection overruled.

ACC. HAUSER: As I said before they got an "A-with-a-cross" if they were industrious.

CUESTIONS BY THE PROSECUTION:

Q If a man who was not a group leader was industrious did he get an "A-with-a-cross"?

A That also occurred, yes. Yes, for example if a prisoner would go to another Tak---the people there couldn't do their work and this prisoner jumped in to help them.

Q Were all group leaders classified with an "A-cross"?

MR. M'KAY: That is objected to as repetitious.

PROSECUTION: I haven't asked that question before, may it please the court.

ACC. HAUSER: No.

PRESIDENT: Objection overruled.

QUESTIONS BY THE PROSECUTION:

Q You were the highest paid man on the detail; is that correct?

A I don't know that.

Q Who classified you?

A The clerk's office in the quarry, the chief capo. My pay was steady, was determined. There were capos who got 35 marks, they were the chief capos.

Q And all capos who were not chief capos got 30 marks; is that correct?

A I also saw capos who merely got 25 marks.

PRESIDENT: The court will adjourn to 1:30 this afternoon.

(whereupon at 1200 hours the court adjourned)

CA/GI 13 Legal Form No. 8

Afternoon Session.

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG
Case No.

Pages 3789 - 3828 Incl.

*~~Summary~~
*~~Intermediate Military Court~~
*General

Prosecutor

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 20 September (Part 2) 194 6
1330 hours - 1700 hours

Reporter

~~Members of Court~~

WITNESSES:

JOSEF HAUSER

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

Imprisonment — Term

Beginning 194

Fine — Amount

To be paid before 194
or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH FLICK, et al.

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGUN AND HELD 13 JUNE 1946

30 Sept. 1946 1330 hours to 1700 hours Pages 3789 - 3808 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
JOSEF HAUSER		3789			

EXHIBITS

No.	Description	Marked	Received in Evidence
68	Statement of Accused, Hauser	3807	

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Mr. Berkowits, who is absent on business of the prosecution, all the personnel of the defense are present, with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused, and Dr. Wacker, who is ill; all the accused are present, with the exception of Olschewski, Oswalt, Ruddensieg, Pens, Jakubith, Misbusch, and Meye, who are sick in the hospital, and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Continuation of cross-examination.

JOSEF HAUSER, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION:

Q I believe you stated yesterday, Hauser, that you had several classes of individuals working on your detail of C-1, is that correct?

A Yes.

Q And what were those classifications again, please?

A "A" with cross, A, B, C.

Q All right, now, not with respect to the type of work that they did but with respect to whether they were prisoners, civilians, or otherwise, will you tell the court what types of prisoners you had working on your detail of C-1?

A I had prisoners, also had civilian masters.

Q Now, when you say prisoners, were they divided into a further class?

A As I already explained--those classifications.

Q You mean with respect to the type of work that they did, is that correct?

A As I already said, there were four clean-up men who were classified "C" in my hall, and these were in "B" who prepared the tools for the prisoners and the rivets. And the rest of the prisoners were in the classification "A". And those who were especially industrious, those who helped other prisoners with their work, they received an "A" with a cross classification. Also the group leaders. There were also group leaders there who merely earned 12 marks; there were group leaders who thought that as soon as they became a group leader, they didn't have to do anything else and they would go and take walks.

Q Well, now, you had political prisoners working on your detail, did you not?

A Yes, most of them.

Q And you had criminal prisoners working on your detail, did you not?

A MR. MCKAY: That is objected to as not proper cross-examination. The reference to criminal prisoners is a matter that attempts to go into the character, which has not yet been questioned. You may ask what color of triangles they wore.

PRESIDENT: One of the members of the court would like the objection of Mr. McKay re-read.

(Thereupon the reporter read the objection.)

PROSECUTION: May it please the court, I think that an objection of that type is doing nothing more than taking the time of this court. The question is perfectly proper. The matter has

been testified to with respect to prisoners that wore green triangles—what they were; that they were criminal prisoners, and it is only six of one and half a dozen of the other. I also want to say this that further objection was that it goes into the character, which has not been raised. Character of whom? The objection doesn't say whether it's the character of this accused or whether it's the character of the prisoners that were in Flossenburg.

MR. MCKAY: The question is objected to for the reason that it goes into the character of some of the accused. There is a question before this court as to just what a green triangle meant and the inference of the prosecutor to try to interpret into that a criminal aspect is entirely improper. The record thus far shows that that classification was "protective custody" prisoner and not "habitual criminal".

PROSECUTION: As I understand it, may it please the court, from the testimony that has been submitted into this record, both by the prosecution and by the defense, every man who wore a green triangle had been convicted of a crime by the German court in pursuance of that and I have a perfect right to refer to those prisoners in any manner that is commensurate with the facts that have been introduced, either by the prosecution or by the defense.

MR. MCKAY: Let the record show the accused Heye has returned.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

A I had three prisoners in my hall who wore a green triangle.

PRESIDENT: Just a minute. The court might add the basis of that decision, Mr. McKay, is upon the fact that ne

(Hauser-Cross)

particular defendants were specified.

Q What other types of prisoners did you have besides these who were political prisoners and those who were the green triangles?

A Black triangles—gypsies.

Q Did all gypsies wear black triangles?

A Those who were in my division, yes.

Q Isn't it a fact that there were persons there who worked who did not wear any kind of triangle and who were not classed as civilian leaders?

A No.

Q In other words, all prisoners that worked in your detail, then, were either green, red or black triangles, is that correct?

A Yes, the Russian officers were a letter "O" above their triangle beside the triangle.

Q Didn't you testify yesterday that there were civilians there who were not political prisoners, who were not the civilian officers, who worked on your detail?

A Political prisoners?

Q Who were not political prisoners?

A I can't determine that.

Q Did you state that yesterday or not?

A I don't believe I said that. The civilian employees were political. I said that I had political prisoners in there who came into the camp.

Q Civilian employees were political prisoners, is that right?

A No.

Q Well, what did you just say?

A I said that former prisoners who worked in the factory came into the camp and worked as civilian workers but wore a red triangle.

Q And where did these prisoners come from?

A Regensburg, Augsburg—wherever they worked. There were peasants, farmers.

Q And were they classed as political prisoners?

A Yes.

Q Now, you stated yesterday that you were beaten by a sergeant when you first entered Flossenburg until you signed a statement, is that correct?

A Yes.

Q What was the name of that sergeant?

A Passbender.

Q And what was his position in the camp at the time?

A Political section.

Q And who was the head of the political department at that time?

A Passbender.

Q You mean the sergeant was the head of the department?

A Yes.

Q And when did he leave the political department?

A As far as I know 1943.

Q You received coupons as pay, is that correct?

A Yes.

Q And what were you able to do with the coupons that you received as pay?

A We could buy things in the store and we could go to the whorehouse with them.

Q And what did they have available for purchase in the canteen?

A That all depended.

Q On what?

A Sometimes there was something there; sometimes there wasn't anything.

(Hauser-Cross)

Q Well, how frequently was there something there?

A It all depended on how much we got in from the outside—how much was delivered.

Q How much did you get in from the outside?

A I can't tell you that.

Q Did you ever buy anything there?

A Yes.

Q What did you buy there?

A Cigarettes, chewing tobacco, fish, beer, radishes, and preserved vegetables. They also had pepper and salt and other kinds of spices.

Q How frequently did you purchase at the canteen?

A As I said, when there was anything there.

Q Well, how often was that?

A I can't tell you that.

Q How long were you in Flossenburg?

A Three years.

Q And how many times did you make such purchases as you have described to the court?

A The canteen existed only starting with the year 1944. Before that it was in the block and the block clerk had charge of it.

Q And how frequently did you make purchases during the time that you were there—to your best judgment?

A Almost daily.

Q So they had a supply of provisions in the canteen practically every day, is that correct?

A Yes, various things; yes, that's right.

Q When was it that you left Flossenburg—what date?

A 20th of April '45. That was after they had completely evacuated the camp except for us.

Q Now, did you leave the camp at any time prior to the 20th of April 1945?

A Yes, when I was transferred to the SS barracks.

Q And when were you transferred to the SS barracks?

A Sunday, 8th of April.

Q And when you were transferred to the SS barracks did you leave Flossenburg?

A Yes, I could take walks.

Q But you were still considered to be housed in Flossenburg, is that not correct?

A Yes.

Q And you remained there in the SS barracks until the 20th of April 1945, is that correct?

A Yes.

Q And never left Flossenburg at any time during that interval, is that correct?

A Only with the exception of the 9th or 10th of April when we made this march with full equipment and we came back the same night.

Q And that was the only occasion that you left Flossenburg, is that correct?

A With the exception of the times that I said when I took walks.

Q You stated yesterday that Kubler was the worst SS of all, is that correct?

A Kubler and several others.

Q Well, how bad was Kubler?

A As I said yesterday, he was like a beast.

Q In what respects was he like a beast?

A Whenever he beat them so that they remained lying prostrate.

Q How frequently did he beat prisoners?

A Almost daily.

Q How many died as a result of Kubler's beatings?

A I don't know that.

Q How well did you know Kubler?

A I knew Kubler as my comando leader since the end of '43. And then he became roll call leader at the beginning of '44. And in '45 he went to the work unit in Dresden.

Q Kubler was a good friend of yours, was he not?

A I couldn't be a good friend with an SS who had already put me in prison.

Q Did Kubler put you in prison?

A No, he didn't, but he beat me so badly that I had to go to the hospital.

Q When was that?

A It was in June or July '44.

Q What benefits did you receive by virtue of occupying a position of a capo in Flossenburg?

A I didn't get any advantages. On the contrary, there were always disadvantages.

Q Well, you got thirty marks a month, did you not?

A Thirty marks? That wasn't any advantage.

Q That was more than the other prisoners got, was it not?

A I don't consider that an advantage.

Q What did you consider advantages?

A I consider something to be an advantage when I can make my situation better. For instance, if I would get better food, better sleeping quarters, or get better treatment.

Q All right, you did have better food, didn't you?

A I got the same food as my other prisoners.

Q But you got more, did you not?

A More, no. On the contrary.

Q You distributed, didn't you?

A Som-times, yes.

Q How many people slept with you in your bunk?

A Four of us slept in two beds.

Q And during what period of time were you a capo?

A The end of November, beginning of December '43, until the 30th of March '45.

Q Kubler was responsible for your being made a capo, was he not?

A I don't know that.

Q Well, don't you know that he introduced you to the protective custody leader?

A That's right, he suggested my name. Kubler did it this time because he was the leader of the detail and another detail leader would have done it just as well if there had been another one.

Q And Kubler selected you out to introduce you to the protective dustody leader in order that you could be made a capo, did he not?

A Kubler didn't pick me out. He saw me working in my hall and knew that I worked well.

Q Who else picked you out if Kubler didn't?

A As I already said, he picked me out because he saw me working in my hall and knew that I was a good worker.

Q But he did that, did he not?

A I assume it. But the protective custody leader, Fritz, could have done it just as well.

Q And by your own statement, is it not a fact that Kubler was one of the worst men in the camp?

A As I already said, Kubler was like a beast.

Q How many men did you have on your detail at the time the transport came in?

A 240 men. This was in August. On the 8th of August '44 the Warsaw transport arrived--it was a Jewish transport.

Q And how many persons did you get off of that transport for your detail?

A I believe 30 men, I can't tell you with certainty.

Q So that after the transport came in you had 270 men on your detail, is that correct?

A That's about right.

Q Now, did the personnel of your detail change any between the time of the arrival of the Warsaw transport and the time that you were relieved as capo?

A In August '44 the Warsaw transport arrived, but I was not relieved as capo. I was capo until the 30th of March.

Q Yes, and I want to know whether the personnel of your detail changed at any time between August 1944 and March 30, 1945?

A Yes, it was reduced down to 190 men.

Q What happened to the other 80 men?

A They were transferred and used for Division 11. There construction of wings was going on.

Q And when did that take place?

A I can't tell you the exact month. The people left my work detail August--September.

Q Your best judgment is that you lost 80 men from your detail in September--August or September 1944, is that correct?

A Yes.

Q And did it remain at the figure of 190 men until you stopped being capo on the 30th of March 1945?

A Yes. It could have been a few people less also.

(Hans r-Cross)

Q How many of them died on that detail?

A I don't know.

Q What is your best judgment?

A Around four men. They died of tuberculosis.

Q And those were the only four men between September 1944 and March 1945 that died on your detail, is that correct?

A They were the only ones whom I can remember between February '44 and March '45.

Q Between February '44 and March '45?

A Yes. It could have been more—I don't know; I can't remember it any more to say exactly.

Q Well, what's your best judgment? If it could have been more, how many more?

A I remember only four.

Q Well, is your recollection pretty accurate on that, or not?

A Yes, in this case because they were especially good workers, who worked daily in this task and they did specialized work especially.

Q How many wings did you turn out in a day in February 1944?

A As I said, nine to ten wings, but it often happened only five in one day.

Q And how many wings did you turn out in August 1944 in one day?

A Perhaps about the same number.

Q And how many did you turn out in October and November 1944?

A Then I often finished only three wings a day.

Q And did that same rate continue up until March 1945?

A In March we didn't work any more at all because the work had ended in January.

Q Well, what was the greatest number that you turned out in any one day in January 1945?

A We completed one to two wings, according to the amount

of wing construction structure that was there.

Q What was the name of this Ukranian that you said escaped in June 1944?

A Tarnawskei, Peter.

Q And his number was 610, is that correct?

A Yes, 610. He was quartered in Block 4.

Q Whatever happened to him?

A He was never caught again.

Q Now, you stated yesterday that on the average all your prisoners were well fed and well nourished, is that correct?

A Whatever I got, the prisoners received.

Q I didn't ask you that. Just answer my question.

A Yes.

Q Did they receive the same diet that the other prisoners received?

A Yes.

Q And the other prisoners in Flossenburg were they well fed and well nourished, on the average?

A I don't know what was going on in the camp. I know that those who were working outside got more. There wasn't any breakfast bread for those who were unemployed in the camp.

Q Well, you lived in the camp, did you not?

A I only slept there; I didn't work there.

Q You had occasion to see the prisoners that occupied the camp, didn't you?

A Yes.

Q And did they look well nourished and well fed on the average to you?

A Yes, the people who were constantly in Flossenburg who stayed there, but the people who arrived in the transports starting with the

fall of '44, they looked bad.

Q Well, prior to that time did you see anyone who did not look well fed or well nourished in Flossenburg?

A I didn't see anyone who was undernourished except one who was sick.

Q It was up to you, was it not, to decide whether or not a prisoner was able to go to the hospital?

A Not basically, no.

Q What do you mean by that?

A When a prisoner was ill he would go to the dispensary himself except for those who were at work. For those I was responsible.

Q When a prisoner was at work is it not a fact that he could not go to the hospital until you first gave your permission?

A He had to report to me and tell me where he was going because a capo had to know where every prisoner was.

Q Yes, but he could not leave and go to the hospital unless you gave your permission, is that not true?

A That's not right.

Q Then how could he go to the hospital without your permission?

A As I said before, he could say to the comrades and tell them to tell the capo that he was away and usually for a case of this sort the group leader was there and the prisoner knew that if they reported personally to a capo that the capo would lead them up to the clerk's office himself.

Q Now, you carried a rubber hose around with you while you were a capo, did you not?

A No.

Q You never at any time carried a rubber hose?

A Except for the two cases I described, I never did, unless I was repairing the air hoses, and every day an air hose would burst.

Q And every day you beat prisoners, did you not?

A That isn't right. I am not built that way.

Q And what was the reason why you beat these two prisoners with the rubber hose?

A I beat my assistant capo because he beat either a Russian or a Pole, I believe that's what he was; and a Russian who attacked a Pole with a drawn knife during work.

Q And these were the only two cases in which you ever used a rubber hose to beat a prisoner, is that right?

A Yes.

Q And these were the only two reasons upon which you beat these two prisoners, is that correct?

A With the rubber hose?

Q Is that correct?

A Yes.

Q Did you ever beat any with a rubber hose who had attempted sabotage?

A Sabotage?

Q Yes, sabotage.

Q On the 16th of January I said here under oath that if a prisoner committed sabotage I did not report him, but let's assume that I had a rubber hose in my hand fifteen times because I would rather estimate it too high than too low.

Q You just answer my question. Reporter, will you read him the question.

(Whereupon the reporter read the last question.)

Q I don't want your arguments; all I want is your answer to the question, please.

A I can't recall that any more. I don't believe that I would have beaten a prisoner because of work because if I had beaten a

prisoner because of work then he wouldn't have been a good worker, he would have had fear, and he would have done more damage than good.

Q Then, do I understand your answer to be that you did not beat any of your prisoners with a rubber hose except the one that beat the Russian, your undercope, and the Russian who was using a knife, is that correct?

A That's right.

Q And was your recollection better in January of 1946 or it is better now as to what transpired in Flossenburg?

A I can't determine that exactly. I believe that my memory is getting worse, but I know exactly what I said on the 16th of January 1946 under oath.

Q What did you say on the 16th of January?

A I was interrogated by the prosecutor, Mr. Berkowitz/

Q What did you say?

A I would like to ask the permission of the court to now testify exactly as I was interrogated then.

Q I want you to answer my questions, please. You have a counsel that will ask you questions that you want to be asked. You will answer my questions now, please.

MR. MCFAY: I think he is entitled to do that. He is answering the prosecuter's question. He asked him what he said then.

PROSECUTION: May it please the court, all I want him to do is answer the questions that I propounded to him.

PRESIDENT: Court will be closed.

(Thereupon the court was closed at 1430 hours and reopened at 1440 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of

the prosecution are present, with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused, and Dr. Wacker, who is ill; all the accused are present, with the exception of Olschewski, Oswalt, Buddensieg, Pens Jakubith and Misbusch, who are sick, and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom that expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The cross-examination will continue. At the same time the court desires to state that if the accused on the witness stand at a later time desires to make any statement to the court, the court will be glad to receive same. Do you fully understand?

ACCUSED HAUSER: Yes.

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION:

Q Now, what was it that you said to Mr. Berkowitz on the 16th day of January 1946?

A Mr. Berkowitz merely made notes to what I said. Mr. Berkowitz gave the notes to a Polish Captain, Tasick, who was a former prisoner from Hersbruck, a block eldest, and this Polish Captain formed sentences out of these notes and what was said to me I wrote down. And he said to me, "It doesn't matter about you anyway; you don't play any part here. Merely write down what is said to you."

Q Will you please answer my question.

PROSECUTION: I will ask the court to please instruct the witness to answer the question that has been propounded to him, and I will likewise move the court to strike from the record the statement that has been made which was not responsive to the question that was propounded to him.

PRESIDENT: The reporter will read the prosecuter's question.

(Whereupon the reporter read the question as follows:

"Q. Now, what was it that you said to Mr. Berkowits on the 16th day of January 1946?"

PRESIDENT: Mr. McKay, do you have anything to add?

MR. MCKAY: If it please the court, I think the form of the question is confusing and especially through translation. "Said about what" would clear it up.

PRESIDENT: Anything further?

PROSECUTION: Nothing is necessary.

PRESIDENT: The motion is sustained.

PROSECUTION: I would like, may it please the court, that the witness be instructed to answer the question of counsel.

PRESIDENT: The court at this time directs the witness to answer the questions propounded to him in the best way he possibly can. If you desire to make an explanation of any statement that you have made you will be given an opportunity to do so later on, either during the re-direct examination of your defense counsel or at a later period during the time that you are on the stand. The court feels that your answer was not responsive to the question put by the prosecutor. One of the court members desires the original question put by the prosecutor reread.

(Whereupon the reporter reread the question.)

A In the morning at 9 o'clock on the 16th of January 1946 I was told to come to Mr. Berkowits.

Q Just answer my question, please. Do you understand it?

A And he asked me when I was in Flossenburg, when I was a capo, what kind of work I did, what block I lived in?

Q I am not asking what he asked you. I am asking you to please just answer the question propounded. What you told Mr. Berkowitz, not what Mr. Berkowitz said to you.

(Hauser-Cross)

A They were those questions I already told the prosecutor and I told them to Mr. Berkowitz.

Q I want to know what you told him. Now, please tell the court what you told him.

A Yes, I was about to answer but the prosecutor interrupted me. If I will give an account of this then I will have to tell it to you from the very beginning to the very end.

Q Just please answer the question, what you told Mr. Berkowitz on the 16th of January 1946.

A I went to Flossenburg the 20th of April '42, and in Block 14 there I was quartered first. And then Block 4, Block 3, Block 1, Block 11, Block 4; then I was a stone cutter. I became a capo at the end of November and beginning of December '43 and first had charge of Department 2, and at the end of February '44 I took over Department C-1. I beat people. I took care that the people got their food. I allowed sick prisoners to lie next to the stove. I brought sick people to the hos ital. I also said that I often came to my place of work with a fever. I was especially lenient to the Jews. When someone committed sabotage I would hit him in order to avoid having to report him because otherwise he would be hanged. And I knew of such instances. That's about all.

Q Did you make this statement, "The prisoners who tried to steal from their comrades or ones who attempted sabotage I beat with my hand and once I beat with a rubber hose. Some of them were bleeding from the hose."?

A I didn't say that. I merely said that I hit one with the hand and—

Q Just a minute, just answer my question, please. You did not make that statement?

A I didn't say that he bled after I had hit him with the hose.

I did say that when I hit him with the hand—

Q Just answer my question, please.

A I have already answered your question.

PRESIDENT: There will be no conversation among the accused. If you desire to write notes, the court will okeh that matter.

(A document, being a statement of the accused, Josef Hauser, was marked Prosecution Exhibit No. 68 for Identification.)

Q I hand you a document marked Prosecution Exhibit No. 68 for identification and ask you to state whether or not that is your handwriting.

A Yes.

Q And on page 2 of that document I show you a signature and ask you to state whether or not that is your signature.

A Yes.

Q And I will ask you to read the next to the last paragraph on the second page, please.

A "At twelve o'clock on the 16th of January 1946 I voluntarily wrote down this declaration in my own hand without any pressure, duress or coercion. I swear by God Almighty that I spoke here the truth, the whole truth and nothing but the truth. Signed."

Q All right, I will ask you to read this sentence from Prosecution Exhibit No. 68 for identification, beginning with "Ich habe".

A "I beat some prisoners who stole things from their comrades and those who tried sabotage. I beat them with my hands and once I used a rubber hose and some of them bled from the nose."

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours and reconvened at 1530 hours.

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel

of the prosecution are present, with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Ooding and Mr. Hall, who are absent on business of the accused, and Dr. Wacker, who is ill; all the accused are present, with the exception of Olschowski, Oswalt, and Buddensieg, who are sick in the hospital, and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination, Colonel Dansen.

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION:

Q Since you testified before the recess, have you discussed your testimony with anyone?

A No.

Q I hand you Prosecution Exhibit No. 68 for identification and ask you to state whether or not the sentence that you read to the court before the recess is in your own handwriting?

A Yes.

Q And you swore that that was the whole truth, is that correct?

A Yes.

Q And you know the meaning of an oath?

A Yes.

Q How badly did these prisoners bleed that you beat with the hose?

A No one bled because of the hose.

Q Didn't you state that they bled from the hose?

MR. MCKAY: That is objected to as improper in form. It is an attempt to distort the facts. It is argumentative in form. When

he read the statement it was translated "bled from the nose" not "from the hose".

PRESIDENT: The court will give the prosecuter an opportunity to verify that matter before replying.

(Whereupon the reporter read the statement as follows:

"I beat some prisoners who stole things from their comrades and those who tried sabotage. I beat them with my hands and once I used a rubber hose and some of them bled from the nose."

PROSECUTION: I will withdraw the question.

Q How badly did these prisoners bleed from the nose?

A The nose is very sensitive.

Q I didn't ask you that. Answer my question, please. Did you understand the question?

A Yes.

Q Well, answer it,please.

A Not badly.

Q How frequently did they bleed from the nose?

A Several times.

Q Then you would beat the prisoners in the face in the nose, is that correct?

A It's not correct.

Q Well, what made the nose bleed?

A When they turned around and I was hitting them with my flat hand they would turn around and I would just catch their nose with the palm of my hand.

Q Did you ever beat any prisoners for sabotage or stealing from their comrades, with a hose?

A Not because of sabotage.

Q Well, did you beat them with a hose because they stole from their comrades?

A Some, yes.

Q So that you did beat prisoners with a rubber hose on more than the two occasions that you have testified to the court?

A I said it could have been more.

Q Well, I want to know now was it more?

A It could have been five or six times altogether.

Q Could it have been thirty or thirty-five times altogether?

A No.

Q Now, you stated that you beat prisoners with your hand in order to keep from reporting them, is that correct?

A Yes.

Q And you beat them with your hand because they had attempted sabotage, is that correct?

A That I can't say.

Q You mean you don't remember?

A I can remember.

Q Well, did you or did you not beat them for attempted sabotage?

A No.

Q What was considered as sabotage in your detail?

A I received completed parts. If anyone of these parts had been damaged or broken that would have been considered sabotage.

Q And you never at any time beat a prisoner because some of these parts were broken, is that correct?

A That I can't say. I was allowed to break four percent of the supplies.

Q You mean you can't say whether or not you ever beat anyone because supplies were broken?

A No.

Q In other words, you don't know whether you did or you did not beat prisoners because parts were broken?

A I knew that.

Q Well, did you or did you not beat prisoners because parts were broken?

A No.

Q Do you remember making a statement to Colonel Shaw and another gentleman by the name of Kenneth Henke here at Dachau?

A I was only questioned once by him and he read to me my statement about the Jews and asked me whether it was correct.

Q I'll ask you if it isn't a fact that you stated in the presence of Colonel Shaw and a man by the name of Kenneth Henke here at Dachau before this trial that you had beat many prisoners because of sabotage and stealing. Did you make that statement?

A I did not say because of sabotage.

Q Did you make that statement?

A That I beat, yes.

Q Well, did you make the statement that I just read to you?

A Not because of sabotage.

Q You did say that you beat many prisoners, though, is that correct?

A What do you mean, many?

Q Just answer my question. Did you make that statement?

A If you mean four I understand these to be many, ten to be many or a hundred to be many also.

PROSECUTION: I move to strike his statement, may it please the court, and ask the witness to be directed to answer the question that was propounded to him.

PRESIDENT: The motion of the prosecuter is sustained. The court directs the witness to answer the question specifically. If you don't know, say so, or if your answer is no or yes, so state. But the court directs that you make a definite statement. If you desire to make any explanation at a later time the court will give you

full opportunity to do so.

ACCUSED HAUSER: Yes, but if I say yes I am lying to myself, and if I state no I am lying to the court.

Q Do you know whether or not you made the statement that you had beat many prisoners? Is that true or not?

A Yes.

Q Did you make that statement?

A Yes.

Q What were the occasions that you beat prisoners on in order to avoid making a report?

A If they stole.

Q Anything else?

A If they broke tools.

Q Well, breaking tools was considered to be sabotage, was it not?

A Not these tools.

Q What tools were they?

A Work tools.

Q And what tools were broken that were considered to be sabotage?

A Plane parts, drilling machines. For instance, saw blades, plate hammers, and drills, and so forth, were not considered sabotage.

Q Was damaging a finished produce considered sabotage?

A If it exceeded these four percent, yes.

Q And did you ever have any prisoners who broke more than four percent of your output?

A No.

Q Never at any time?

A No.

Q I'll ask you if it is not a fact that you made this statement to Colonel Shaw and Mr. Henke here at Dachau before this trial:

"If an already finished product was damaged by carelessness or by stupidity it was considered sabotage by my superiors. Then instead of reporting the men I would beat them." Did you make that statement?

A I stated that, however, only in excess of these four percent.

Q Then you did beat people who exceeded this four percent, is that correct?

MR. MCKAY: The question is objected to as argumentative in form.

PRESIDENT: The objection is overruled.

A That was never the case.

Q Then, what was the occasion of your making this statement to Colonel Shaw and Mr. Henke?

A I don't believe I made that statement because I was only in there for five minutes.

Q Didn't you say a moment ago that you did make that statement?

A I don't think so.

PROSECUTION: Will you go back to that, please.

(Whereupon the reporter read the answer of witness as follows:

"A I stated that, however, only in excess of these four percent."

Q Then you did not make that statement to Colonel Shaw and Mr. Henke, is that correct?

A In case anyone would have exceeded these four percent I would have beaten them--just supposedly.

PROSECUTION: Now, I move to strike the answer, may it please the court, and again ask the court to instruct the witness to answer the question that was propounded to him.

PRESIDENT: Read the answer, reporter.

INTERPRETER: If it please the court, could I ask the witness about his last answer because I don't think I got part of it.

PRESIDENT: Proceed.

INTERPRETER: The answer should be "I did make the statement about sabotage and said that I would have beaten them in case they had exceeded the four percent".

PROSECUTION: I am withdrawing my motion to strike and will ask this question:

Q Did you or did you not make the statement to Colonel Shaw that I have read to you?

MR. MCKAY: The question is objected to as repetition.

PROSECUTION: He never has answered it so far as I have been able to ascertain, may it please the court. I have had read everything he said and I want to find out now whether he did or did not make that statement.

PRESIDENT: The objection is overruled. The matter is still not clear in the minds of the court.

Q Answer the question, please.

A I do believe that I did answer the question by stating I did make this statement, and my remark was that that was in case of the excess of the four percent.

Q Well, what do you mean when you stated in your statement of 16 January 1946 that"The prisoners who tried to steal from their comrades or the ones who attempted sabotage I beat with my hand and once I beat with the rubber hose. Some of them were bleeding from the nose"?

A What I meant to say was that they were bleeding from the nose and in one case I used the rubber hose if the party in question had stolen from another comrade frequently.

Q But you also stated that you beat those who attempted sabotage. Now, tell the court, please, about that sabotage when you would beat the prisoners?

A In case of sabotage they would exceed the four percent, yes. That is to say, I did beat people who worked badly.

Q And those people who worked badly then were those who committed sabotage, is that correct?

A It was not sabotage.

Q Then, I again ask you please to tell the court the circumstances where you beat them who had attempted sabotage.

A As stated, I did not beat anyone because of sabotage.

Q Well, you did state on the 16th of January 1946 that you did beat prisoners who had attempted sabotage.

A I don't believe—quite.

Q All right, I hand you again Prosecution Exhibit No. 68 and ask you to read this portion outloud to the court.

A "I beat prisoners who stole from comrades and who committed sabotage with my hand and on one occasion with a hose".

Q All right, what did you mean by that statement that you had beaten prisoners who had attempted sabotage?

A I don't think so because at that time I was not given permission to write down everything I wanted to.

Q You wrote this down, did you not?

A That I wrote down, but Captain Tasick told me not to write down anything additional. More additional sentences belonged there that were left out by Captain Tasick because he said they were not needed.

Q You signed a statement over here that this was the whole truth, did you not?

A Yes.

Q And you also stated that it was the pure truth and that you withheld and added nothing, did you not? Is that true?

A It is the whole truth—what I wrote down.

Q In other words, the matter that you wrote down here was the whole truth, is that correct?

A Yes, except that which was not important according to the Captain.

Q And you stated also that you did not withhold or add anything, is that not true?

A In this matter, yes, but I do have to remark that if I had known that I would be brought before a tribunal that I would have written everything.

PRESIDENT: The court wishes to assure the witness that he will have every opportunity to make any additional statement that he sees fit.

ACCUSED HAUSER: Yes.

Q Now, it was prohibited for a civilian master to be a prisoner, was it not?

A I can't answer that question because never a civilian master was a prisoner.

Q My question was "It was prohibited for a civilian master to beat a prisoner, was it not?"

A Yes.

Q And I believe you stated yesterday, did you not, that civilian masters who beat prisoners were reported.

A Once I reported a master to factory manager Schubert and he was transferred.

Q And it was likewise prohibited for capos to beat prisoners, was it not?

A As a matter of policy, yes, but they were to make reports.

Q But it was forbidden actually for capos to beat prisoners, was it not?

A They should have made reports.

Q But capos beat prisoners, did they not?

A To avoid a report.

Q Do you know of any instance where capos reported prisoners

instead of beating them?

A Yes.

Q When did that take place?

A 1944.

Q Who was the capo?

A An overcape, capo Vohnstein.

Q Was there anyone else besides this type of man who made reports who was a capo?

A I don't know that.

Q In other words, all the other capos beat the prisoners instead of making reports, is that correct?

A I think so because they saw what would happen to those men in question. We saw often enough that people were strung over a wooden horse for beating or were hanged. When they were beaten by the SS, the basis for the punishment was read to them and the same was done when they were hanged.

Q In cases of sabotage where prisoners were beaten instead of being reported, how could the capo avoid the SS or the civilian masters from being informed of the breakage of equipment?

A That I can't say because that was not the case with me.

Q Well, did you ever hear it discussed among the other capos?

A I had little opportunity to get together with other capos.

Q Well, you used to get together with Jakubith, did you not?

A Yes.

Q Did you ever discuss it?

A When my people were down there, yes.

Q What did you say about it at that time?

A What my people had to work.

Q Did you ever discuss with Jakubith how the SS or the civilian masters were kept from being informed when a prisoner had destroyed

through carelessness or stupidity a finished product?

A No, because there was no need for that as far as Jakubith was concerned.

Q Well, Jakubith was a good friend of yours, was he not?

A No.

Q How long have you known Jakubith?

A Since '44. I seldom talked to Jakubith in the camp.

Q In other words, you know very little about Jakubith, is that correct?

A Inside the camp, yes; only at the place of work when my people were working there.

Q When was it that you were chased into the wire fence?

A '42, in the fall.

Q And how did that take place?

A From stone mason hall 5.

Q Who did it?

A Capo Rochel.

Q How many other men were chased into the wire fence that you know about at Flossenburg?

A As I mentioned, twenty to twenty-five, perhaps.

Q And were these people shot?

A Yes.

Q And by whom were they shot?

A From the respective guard.

Q Now, you testified that Rochel and Nihe and Zimmerman were beasts, is that correct?

A I had known Zimmerman only a few days. According to my assumption he must have been a beast because he did that.

Q Well, just answer my question, you did testify that these men were beasts, is that not correct?

A Yes.

Q Do you know where they are at the present time?

A I believe they are dead.

Q Now, do you know of any other personnel there at Flossenburg who are still alive who also beat?

A I don't know that because I was not at liberty any more.

Q In other words, all the people you can testify against are those who are dead, is that correct?

MR. MCKAY: The question is objected to as argumentative in form.

PROSECUTION: I will change the form, may it please the court.

Q Is it a fact that the only people that you can testify against are dead?

A No.

Q All right, who else can you testify against that are alive?

MR. MCKAY: It is objected to as going beyond the scope of direct-examination.

PROSECUTION: May it please the court, in that connection this man has tried to give the impression that the people who were bad were persons who are dead or not before this court and I think I have a perfect right to show that that is not the case. He has gone into one side of the condition of the camp at Flossenburg by singling out these particular individuals Rochel, Niko and Zimmerman, and I think I have a perfect right to show that there are others there besides Rochel, Niko and Zimmerman. And it will certainly show to the court whether or not there is any prejudice or bias on the part of this witness in his testimony.

MR. MCKAY: If it please the court, there is never any question about prejudice or bias of an accused. That's an assumed

fact when the accused takes the stand.

PROSECUTION: The extent of it, may it please the court.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

Q Answer the question.

A Yes, I can't say that because these people were all sent to different camps only news got back that these specific men died in other camps, such as Rechel and Zimmerman. I don't know what happened to the others—Nihe, Metzler—whether they are still alive. Lang, Wagner and Eller, I don't know where they are;I don't knew whether they are still alive.

Q And the ones that you have now mentioned are they all that you would call beasts there in Flossenburg?

A They were not as bad but they were all transferred for reasons of punishment.

Q Now, you stated that Berger made a statement in your presence that it was tragic that Germans should stay locked up in a concentration camp so long, is that correct?

A Yes.

Q Did he ever say that it was also tragic that Poles should stay locked up in a concentration camp so long?

MR. MCKAY: I shall object to it as being argumentative in form.

PRESIDENT: Repeat the question.

(Whereupon the reporter read the last question.)

PROSECUTION: May it please the court, there is nothing argumentative about that. I am asking about a fact, whether he did say that or not.

PRESIDENT: Do you have anything, Dr. Engelhorn?

DR. ENGELHORN: No, thank you.

PRESIDENT: The objection is overruled.

DEFENSE COUNSEL: May I respectfully call the court's attention to the fact that Berger is represented by Dr. Wacker, now absent, and requests the court's permission, if Dr. Wacker sees fit on his return, to go into any matters affecting Berger.

PRESIDENT: The court directs, Colonel Wilson, that you call that directly to Dr. Wacker's attention upon his return--this particular phase of the case. Now, do you feel that any further questions, as far as Berger is concerned, will seriously affect the accused Berger in the absence of Dr. Wacker?

DEFENSE COUNSEL: No, sir, I merely want to reserve the right to go into this as cross-examination may be closed before Dr. Wacker gets back. I merely for the record want to preserve Berger's rights and Dr. Wacker's rights.

PRESIDENT: That will be granted. Proceed.

Q Will you answer the question, please.

A Yes. by his saying that the foreigners could be employed on the outside in factories. I assume that Berger came from a higher authority or else came back from the front lines because he had so many decorations.

Q Just answer my questions, will you please.

PROSECUTION: And I move to strike so much of that answer, may it please the court, about Berger's decorations and his assumption that he was from higher authority.

PRESIDENT: The motion to strike is sustained.

Q Did Berger say it was tragic that Czechs should stay locked up in concentration camps so long?

A Not only Czechs, but the whole camp.

Q Well, when you testified on direct-examination did you give the whole of Berger's statement at the time you testified?

A I don't understand the question.

Q When you testified on direct-examination with respect to what Berger said, did you state to the court everything that Berger said at that time?

A No.

Q All right, tell the court now in your own words, as best you can, the language that Berger used when he made this statement that you recited to the court.

A Berger made that statement in the German language. We were lead into the room one by one and the first words spoken were "It is a sad thing that they keep concentration camps at all".

Q All right, is that all?

A And he said that he would see to it that we would get out; that the Germans would get out--probably sent to the front lines.

Q Anything else did he say?

A And he also stated that he would check the files of the others and find out how long prisoners had been in the camp because the files were to be checked every six months or every year, which was not done.

Q Anything else?

A I can't remember anything else.

Q Now, have you told the court all that you remember about that conversation?

A The one that took place in the administrative building, yes.

Q And you have used Berger's language as well as you can remember it, is that correct?

A Yes.

Q And he never at any time stated whether Germans, Czechs, or Poles or anyone else, is that correct--by name?

A At first he was talking about the camp in general and later on about the Germans--that he would see to it that Germans would be

released.

Q Well, he never at any time stated specifically Poles, Czechs, or Russians, did he, by name?

A I can't remember that.

Q Now, have you stated to the court the entire conversation that you heard Berger deliver to these eighty or one hundred guards toward the end of April 1945?

A It was not the end of April, it was the 16th of April, yes.

Q And you have stated fully and completely everything that Berger said, is that correct?

A Yes.

Q Were you in uniform at that time?

A Yes.

Q What type of uniform were you wearing?

A At that time I had the police uniform.

Q A German police uniform?

A I don't know that; it was a grey uniform with a green collar.

Q Were you one of these eighty to one hundred guards that he was addressing?

A No.

Q What were your duties on the 16th of April?

A None.

Q You were just wandering around the camp loose, is that correct?

A Not within the camp because I didn't have any business in there any more, it was in front of the camp near a school house.

Q Near the school house?

A At the square near the school house.

Q Well, what was the occasion of your being there within one and a half meters of Berger?

A The occasion was that the column left about ten minutes later

and that I was giving some bread to former inmates. These included my former workers who worked in my hall—Jews. These were those prisoners whom I had taken care of in the hall and to whom I later on gave my travelling rations.

Q You gave your travelling rations away to the prisoners that you knew formerly, is that correct?

A Yes.

Q And those prisoners were standing out there at the time that Berger gave the instructions to these guards, is that correct?

A The prisoners were still inside the camp, behind the gate.

Q And how far was that away from where Berger was addressing the guards?

A A meter and a half away. There was a hill to the right. I waited there till the transport got out of the camp.

Q And you were standing there with bread in your hand while Berger addressed these eighty guards, is that correct?

A Yes.

Q And you were just a meter and a half away from Berger?

A Yes.

Q How near was the nearest SS man to Berger?

A They were in a circle around him.

Q Was he in the middle of the circle?

A Yes.

Q And how big was that circle?

A That I can't say anymore, but the men were about half a meter away from Berger. There were about five or six men, one behind the other—it could have been more also.

Q Were there any other prisoners out there besides yourself?

A The prisoners who had been put into uniforms, yes.

Q How many of these were there?

All of them were down there on that square.

Q Well, was Berger addressing them also?

A No.

Q Well, where were they with respect to Berger?

A Some went up to the supply room because additional clothing was issued, others were standing around the square, others exchanged their coupons. On the right-hand side, on the side of the political section, in the back room cigarettes were sold.

Q How many other prisoners gave their travelling rations away on that occasion to their former comrades?

A I do think certainly all prisoners. If /We didn't do it that day; we did it as soon as we had left the SS barracks we threw food over the fence. And at one time we were caught by the Commandant, Koegel, who threatened us that if it would happen again they would take our uniform away from us and we would be put into the bunker. A guard was placed then.

Q Now, these prisoners that were involved in drinking this airplane fuel who were punished for their defelication had been brought to the attention of the SS, had they not?

A I don't know that.

Q Well, who was it that gave them the punishment of breaking these stones?

A I broke the stones?

PROSECUTION: Read the question, please.

(Whereupon the reporter read the last question.)

A I don't know anything about breaking stones.

Q Didn't you testify this morning that these prisoners were sent up to Lipinski for the purpose of breaking stones in front of the block?

A Those were the four prisoners who had brought wood alcohol into the camp. They had to break stones in front of the disinfection barracks

but that wasn't a punishment, that was a work detail, and before that they were beaten up by the camp eldest and I believe by the camp clerk. I was not present when they were beaten.

Q In other words, that was a regular work detail that these prisoners were supposed to be on, is that correct?

A Yes.

Q And you mean to tell this court that Lipinski hid these prisoners who were supposed to be there on a regular work detail?

A These four, yes, because they were almost not able to work.

Q And these were the same four prisoners who had brought this wood alcohol into camp, is that correct?

A Yes.

Q Was Retslaff among them?

A Yes.

Q Did you say this morning that if the SS saw that they were able to work they would punish them more severely?

A I don't understand the question.

Q Did you state this morning that these four prisoners were hidden by Lipinski so that the SS could not see that they were able to work?

A They were hidden by Lipinski because they had been beaten so severely that they couldn't work. Had the SS seen that they couldn't work they would have intermingled and would have beaten them some more because Baumgartner was watching these four especially.

Q What was the occasion of Baumgartner watching these four?

A I don't know that.

Q Well, how do you know that Baumgratner was watching those four?

A I assumed that because Lipinski placed a guard when he hid these four and when he let them take a rest.

Q Who was the guard?

A A prisoner from Block 20 or 21 where the people were without work.

Q And how do you know that Lipinski had placed a guard there?

A Because I saw the guard stand there.

Q And how do you know that that guard was looking for Baumgartner?

A Because the guard said the prisoners had to be careful of SS men entering the camp and I can only assume that Baumgartner was meant.

Q Was Baumgartner the only man that could come into the camp.

A Around this time it was Baumgartner and Koegel.

Q And what date was that?

A I don't know the date.

Q In your best judgment what was the date?

A It was the middle or end of March?

Q Were you ever at Buelsen?

A No.

Q So you don't know what Baumgartner did at Buelsen, do you?

A I can only state as to what these five prisoners whom I took away from their place of work and put them in my hall said and I am sure those prisoners were telling the truth because I had known them ever since 42 as a stone mason.

Q Well, it was a fact that Wielbach was congratulated by Obergruppenfuehrer Pohl, was it not?

MR. MCKAY: The question is objected to as argumentative in form and for the reason that it goes beyond the scope of direct-examination. There is no showing from this witness there was ever any congratulations of any kind.

PROSECUTION: It would appear, may it please the court, from the objection of counsel that the only matter that I can ask this witness about is something he has already stated so that the entire cross-examination would be wholly repetitious. On direct-examination

455 DW
20-46
age 40

this witness testified about Wielbach's conduct in an incident that took place at Buelsen and I have a perfect right to go into the entire transaction with respect to Wielbach's connection with that incident.

MR. MCKAY: I must remind the prosecuter that he can't go into the entire incident. He can go only into the incident as far as this witness has related that he has knowledge of it.

PRESIDENT: Objection overruled.

Q Answer the question, please.

A I don't know that. I would have known if Obergruppenfhehrer Pohl would have come to Flossenburg because one would have heard about it.

PRESIDENT: The court will adjourn until 9 o'clock Monday morning.

(Whereupon the court adjourned until 0900 hours, 23 September 1946.)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate Copy

FLOSSENBURG
Case No.
*~~Secondary~~
*~~Intermediate Military Court~~.
*General
Place DACHAU, GERMANY
Date 23 September 1946
0910 hours - 1710 hours
~~Members of Court:~~

Pages 3829 - 3908 Incl.
Prosecutor
Defence Counsel
Interpreter
Reporter

WITNESSES:
JOSEF HAUSER
LUDWIG BALOW
RUDOLF SCHMIDT
ERICH NEUMANN
HERMANN PAGEL
JULIUS STRAUB

Accused FRIEDRICH BECKER, ET AL.

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH ENTRESS, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 18 JUNE 1946

23 Sept. 1946 0910 hours to 1710 hours Pages 3829 - 3908 Incl

TESTIMONY

Witnesses	Direct	Cross	Redirect	Recross	Court
John Amoss		3829	3830 3849 3856	3845	3834 3851 3840
LUDWIG, Lucie	3856 3868				3869
ADOLF SCHMIDT	3870	3882	3887		3888
ULRICH NIUMANN	3891	3896	3898		
HERMANN FACEL	3899				
JULIUS STRAUB	3903				

EXHIBITS

No.	Description	Marked	Received in Evidence
8	Diagram		3834
8-9	Diagram	3861	

Ta 457-9/23-1of-1

Camp Dachau, Germany
September 23, 1946

MORNING SESSION

(Thereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the records show that all personnel of the court are present, all personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all personnel of the defense are present with the exception of Major Oeding, who is absent on business of the accused, and all the accused are present with the exception of Jukubith, Lisbusch, Buddensieg, Oswalt, Olschewski and Heye who are sick in the hospital, and Hurst who is at the dentist.

The interests of all those accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross examination.

Rudolf Hauser, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY THE PROSECUTION

Q When did you become a member of camp police?

A 25th or 27th of March I was taken into the ranks.

Q While you were in Flossenburg and while you were capo of this C-1 detail, did you get enough food to eat?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

(Hauser - Cross)

REDIRECT EXAMINATION

QUESTIONS BY Mr. MC KAY

Q Mr. Hauser, I call your attention to prosecution exhibit 68 which is the statement that you made on 16 January 1946, and ask you who was present at the time you wrote this statement?

A Mr. Berkowitz, the prosecutor, was the first one to interrogate me and he made notes. Then I was taken into an adjoining room and a Polish captain was there. His name was Ptaschek, he had been a former block eldest in Hersbruck.

Q Now prior to the time you actually made this written statement, who talked to you about making that statement?

A Polish Captain Ptaschek.

Q Now will you explain to the court just what that Polish captain told you before you made this statement?

A On the 16th of January, I was first called into the room of the prosecutor, Mr. Berkowitz. Here they presented me with pictures and they were pictures of 33 people, capos and block eldests, and I was supposed to denounce people who had been with me in Flossenburg.

Q What did Mr. Berkowitz tell you at that time?

A Mr. Berkowitz said that I should denounce people here and that in 3 or 4 weeks I would be released. I couldn't denounce any because I didn't know anybody who were on the pictures. They were never people who lived with me. When I said I couldn't denounce anybody, Mr. Berkowitz gave me two boxes on the ear and thereupon I was interrogated on my own case. I wrote this down then because I was thinking about the fact that I had also been beaten in Natternberg during an interrogation so bad that I had to stay in bed for 8 days.

Q Now at the time you actually wrote this statement, who was present in the room?

A The Polish captain, Ptaschek. He formed the sentences for me.

Q Now what did the Polish captain tell you when he directed you to write this statement?

A I was supposed to write down the sentences which he dictated to me and I asked him whether I could add something of my own. No, he said. I didn't need to do that.

Q Now calling your attention to the interrogation you had in Colonel Shaw's office, and I ask you whether there were any notes made of those interrogations?

A In the middle of April I was called again. There was a German interpreter there and my piece of writing was shown to me again and they asked me whether it was correct what I had written down there, and I said yes. I wanted to go into more detail about particular cases regarding sabotage and he said he didn't want to hear about it and after that I left the room 3 to 5 minutes later.

Q How many times were you interrogated in Colonel Shaw's office?

A Once, 3 to 5 minutes.

Q Do you recall who else was present besides Colonel Shaw and the dolmetscher?

A There was a young American there, but he didn't interrogate me.

Q Were you informed as to the name of this American who was present?

A No.

Q Now on cross examination, you stated that you had a conversation with Jakubith. I want you to explain whether Jakubith was working in the Messerschmitt factory at the time you had that conversation with him.

(Hauser - Redirect)

A Jakubith was not working in the Messerschmitt factory. He was working in quarry 1.

Q How during the time you were capo in the Messerschmitt factory, will you explain what the breakage of drill and the like was considered with regard to sabotage?

A It was looked upon as sabotage when someone purposely broke a drilling machine, and naturally, if a capo had turned a prisoner in in such a case over to the SS, the prisoner would be hanged.

Q Going to the pay classification for a minute, in making up your pay classification, did you give any consideration to the actual type of work that the man was performing in giving him a classification?

A No, merely those who were industrious, but on each pay record it would be noted how long he had been working in the Messerschmitt factory—in what take he worked, and what kind of work he had been doing there.

Q Calling your attention now to the menthol alcohol incident in which Retslaff was involved, do you know whether any disciplinary action of any kind came out of that incident?

A It was assumed that these 4 people were the ones who brought the menthol alcohol into the camp. It was never proven that the 4 in question actually did it, but they were punished because of the suspicion.

Q Now you spoke of the incident that when men went to the latrine they were not allowed to stay any longer than 10 minutes.

A Yes.

Q I call your attention again to the diagram which you prepared which has been marked Defense exhibit 8 and I ask you to mark with an "X" and the letter "L" the latrine which was used by the men on your detail at that time.

(Hauser - redirect)

A (Indicated.)

Q Now upon observing the mark that you have just made, will you explain to the court just what methods of exit from your hall to that latrine were available to your men? I ask you to mark with a dotted line the path that your men would use in order to go from the hall to the latrine.

A (Indicated.)

Q Now will you indicate with the letter "L" along those two dotted lines that you have just put on the diagram?

A (Indicated.)

MR. MC KAY: Let the record show that the accused has just made two markings on the diagram which has been marked for identification as Defense exhibit 8.

Q Can you give the court any idea of the distance in meters from your hall to the latrine?

A On the one side it was around 30 meters. That was the way when you went through the department where the nose bases of the airplanes were made. On the other side, if you went through the department where the upper and lower ailerons and the ecolers of the airplanes were made, it would be around 50 meters.

Q All right, now will you mark on the path that was 30 meters, the number 30, and on the path that was 50 meters, the number 50?

MR. MC KAY: At this time the defense offers in evidence the diagram prepared by the witness, Defense exhibit No. 8, for the purpose of explaining the testimony of this accused on the witness stand.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No.

PRESIDENT: Subject to objection on the part of any member of the court, Defense exhibit No. 8 will be received by the court in evidence.

(The document heretofore marked Defense Exhibit No. 8 for identification was received in evidence as Defense Exhibit No. 8, is attached hereto and made a part of the record.)

MR. MC KAY: I am completed with my redirect examination.

PRESIDENT: Recross?

MR. MC KAY: Let the record show that the accused Wurst has returned to the dock.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION

Q Who all was present at the time you were interrogated by Mr. Berkowitz?

A We two were there in the room, I and Mr. Berkowitz, and over in the left, in the adjoining room was the Polish officer. The room was cut off with an enclosed door.

Q And no one else was there but you and Berkowitz when he boxed you on the ears, is that right?

A That is right.

Q And how many times did he hit you on the ear?

A Twice, because he said to me since I had been in Flossenburg for 3 years I must know somebody and I told him I didn't know about anybody on these pictures.

Q And then he hit you on the right ear and then on the left ear, is that right?

A Yes, he was thinking I was lying.

Q Did he hit you two times on the right ear?

A No.

Q Did he hit you two times on the left ear?

A It was right and left, both.

Q Did he use a rubber hose on you?

A No.

Q Stick?

(The document heretofore marked Defense Exhibit No. 8 for identification was received in evidence as Defense Exhibit No. 8, is attached hereto and made a part of the record.)

MR. MC KAY: I am completed with my redirect examination.

PRESIDENT: Recross?

MR. MC KAY: Let the record show that the accused Wurst has returned to the dock.

RECROSS EXAMINATION

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Q And no one else was there but you and Berkowitz when he boxed you on the ears, is that right?

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Q And how many times did he hit you on the ear?

A Twice, because he said to me since I had been in Flossenburg for 3 years I must know somebody and I told him I didn't know about anybody on these pictures.

Q And then he hit you on the right ear and then on the left ear, is that right?

A Yes, he was thinking I was lying.

Q Did he hit you two times on the right ear?

A No.

Q Did he hit you two times on the left ear?

A It was right and left, both.

Q Did he use a rubber hose on you?

A No.

Q Stick?

A No, but they used one in Natternberg when they beat me.

Q You just answer my question. I move to strike that, may it please the court, as not being responsive to the question that was propounded to the witness.

PRESIDENT: Colonel Wilson.

DEFENSE COUNSEL: May it please the court, the previous treatment that he received at the hands of the Americans would certainly influence his state of mind when he was in the subsequent interrogation.

PROSECUTION: In the first place, may it please the court, he was not asked about any treatment that he had received at this other place and in the second place before it would be material and relevant at all, it would have to show some connection as to the point of time and everything else. I submit that the Colonel's argument is absolutely foreign to the issues presented and I move to have his answer stricken.

PRESIDENT: Colonel Wilson.

DEFENSE COUNSEL: I still submit that it would affect his state of mind at the time he was interrogated subsequently. The statements were made while these men were held as prisoners and the treatment they got from the time they came into the hands of the Americans until they came into this courtroom is all a part of the atmosphere affecting their mental state and would go to the degree to which they were influenced in their statements.

PRESIDENT: The motion to strike is sustained.

QUESTIONS BY PROSECUTION (Continuing)

Q Did he knock you down when he hit you?

A He leaned over across the table--the desk. He was sitting in a chair and he stood up.

Q And were you standing up at the time?

A No, I was sitting on a chair.

Q And he reached over and boxed your ears?

A There were two boxes on the ears.

Q How hard did he hit you?

A I believe it was about the same as the way I hit my prisoners.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY

Q Mr. Hauser, how long had you been in custody prior to the time you were interrogated by Mr. Berkowitz?

A Since the 28th of May '45, and I was interrogated on the 16th of January, 1946.

Q Where were you held during the time from your arrest until your interrogation by Mr. Berkowitz?

A I was already here in Dachau.

Q Where were you first arrested?

A In Kaum I was first arrested. I was arrested in the hospital there and on the 30th of May, I was transfered to the camp at Natternberg and on Sunday, the 22nd of July, I was interrogated there for the first time.

Q And who conducted that interrogation?

A 3 people, a Pole, a Serb and a Czechoslovakian.

Q Were there any American officers present?

PROSECUTION: I object. The counsel is leading the witness may it please the court.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. MC KAY (Continuing)

Q Will you explain what you mean when you just said the CIC was present?

PROSECUTION: I object to that, may it please the court, on the ground that it is leading and suggestive. I don't recall that he said anything about the CIC actually, but if he did, I still object to the question on the ground it is leading and suggestive.

PRESIDENT: Was there anything in the record in regard to CIC?

REPORTER: No sir.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. MC KAY (Continuing)

Q How were you treated at the time when you were first interrogated?

PROSECUTION: And I object to that, may it please the court, on the ground it has absolutely no connection with the interrogation that was conducted on the 16th day of January, 1946, and it is absolutely immaterial and irrelevant to the issues in this court.

PRESIDENT: What interrogation are you referring to now, Mr. Mc Kay?

MR. MC KAY: That is his first interrogation. Please read the question and answer about the hospital.

(Whereupon the reporter read the question and answer as follows:

"Q Where were you first arrested?

"A In Kamm I was first arrested. I was arrested in the hospital there and on the 30th of May, I was transfered to the camp at Natternberg and on Sunday, the 22nd of July, I was interrogated there for the first time.")

MR. MC KAY: I withdraw my last question preceded by this.

QUESTIONS BY MR. MC KAY (Continuing)

Q Who arrested you in the hospital the first time?

A On the 14th of May, I was delivered to the hospital—that was 1945. I had to go there because I had been attacked by 5 foreigners. The four men who were with me on the trip had their throats cut, but

they didn't succeed with me. I saved myself by escaping to an American and he brought me to the hospital on the 14th of May. On the 28th of May, I went up to the office of the hospital in order to get some clothes because I had arrived naked at the hospital. There there was a French man who I didn't know. He said I had been a capo and went and got an American and after that I was arrested.

Q Who actually arrested you?

A American.

Q Do you know whether that was an officer?

A Yes.

Q Do you recall what insignias he wore?

A There was one there who had a golden star on his shoulder, and the other had two gold stripes and there was one who wasn't wearing any insignia.

Q Now who transfered you from the hospital to the first camp where you were actually interrogated for the first time?

A American.

Q And after you were interrogated who transfered you to Dachau?

A The CIC took care of that—Americans.

Q Now will you describe how you were treated at this first interrogation?

PROSECUTION: I object to that, may it please the court, on the ground that it is immaterial and irrelevant to the issues of this case, that there is no cause or connection shown between that interrogation and the interrogation that subsequently followed on the 16th day of January, 1946, and it is also not shown that this interrogation was conducted by the American authorities or with the consent of the American authorities.

MR. MC KAY: If it please the court, from the time of this man's arrest by American authorities he is entitled to American protection and he is in the custody of the Americans until he is released.

And this court is entitled to know what treatment any of these prisoners were given during the time these prisoners were held in arrest so that they can fully understand the statements that may have been made by these accused to any American authorities subsequent. The only way this man knew, at the time he was interrogated by Mr. Berkowits, the treatment he was going to get, was the treatment he had received before, and he was entitled to consider that at the time he made this statement.

PRESIDENT: The objection of the prosecutor is overruled.

MR. MC KAY: (To Reporter) Will you read the original question?

(Thereupon the question was read by the reporter.)

A I was called to the CIC at 9 o'clock in the morning on the 22nd of July. I was led into a room where the CIC was sitting. There was a Pole in an American uniform, a Czech and a Serb and thereupon they asked me whether I had ever been in Flossenburg, and I said yes. They asked me whether I had been a capo and I said yes. They asked me whether I had ever beaten prisoners and I said I had beaten prisoners when they had stolen something or beaten each other. They asked me whether I had ever done any beatings for my own benefit, and I said no, whereupon they started beating me and beat me for 3 hours with the final result that I lay unconscious on the floor and had to be carried back into the camp. I flew from one corner of the room to the other in the beating. They beat me with a rubber hose about this length (indicating). It was filled—it was a filled rubber hose.

Q Will you explain the length of that hose in meters?

A It would be around 45 centimeters long—a rubber hose 2½ centimeters thick. It was an official police club.

(Hauser - Redirect)

Q Were you ever interrogated following this prior to the time you were actually interrogated by Mr. Berkowitz?

A No.

MR. MC KAY: That is all.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q This took place on the 22nd of July at what place?

A Natternberg.

Q Whereabouts at Natternberg?

A Near Deckendorf.

Q All right, in what section of Natternberg?

A I don't know.

Q Well was it in a building or outside?

A It was in a wooden barracks. A wooden barracks had been put up for the CIC.

Q Brand new building?

A No, it had already been used for sometime.

Q What do you mean put up by CIC?

A The barracks had been brought over by automobile. I don't know where it came from. We had to put it up.

Q You built the barracks yourself, is that correct?

A Yes.

Q And when did you start working on this barracks?

A Around June the barracks was put up.

Q All right, and was it within the wide enclosure of the camp?

A No.

Q Where was it located with respect to the camp?

A 50 meters distant from the camp.

Q How far was it from the entrance of the camp?

A As I said before, 50 meters.

Q From the entrance of the camp?

A It was 50 meters from the main entrance of the camp where the gate was to this barracks.

Q Now what was the name of the officer that called you over there to the CIC barracks?

A I don't know. No name was told to me.

Q What did he look like?

A That varied. There were 3. One was small. One was medium and one was tall and dark.

Q How, or who got you out of the camp and brought you over to the barracks where you were beaten?

A I was next gotten in barracks 13 by a messenger who came from the gate.

Q And what was that messenger—what was his name?

A Blachek or Blachuk, something like that.

Q Spell it please.

A I can't tell you so exactly—Blachek or Blachuk. He is here in the special camp.

Q All right, and after you were gotten by Blachek you were taken over to the CIC building, is that correct?

A Starting with the gate, another one took over, a handy man for the CIC and took me to the CIC barracks.

Q All right, what was his name?

A I can't tell you because I don't know as I didn't know what there names were.

Q What did he look like?

A A tall, slender man.

(Hauser - Recross)

Q What type uniform did he have on?

A They were wearing the clothing of the camp. He had on black trousers, black shirt.

Q All right, now after you got there into the barracks, who was it that spoke to you for the first time?

A All three of them were in there. Then the Pole, the Serb and the Czech—

Q Did you understand my question?

A Yes.

Q Well, answer it.

A It was either the Pole or the Serb.

Q Do you know his name—the Pole's name?

A No.

Q The Serb's name?

A No name was told to me. They didn't tell me their names.

Q Did you ever ascertain the name of any one of those three men?

A No.

Q Did you see an American officer at any time while you were in that room with these three men?

A I don't know that.

Q Did you see anyone else in that room besides the three men that you have described to the court?

A There was no one else in the room. The three gentlemen came from the CIC in an automobile.

Q How do you know they came from the CIC?

A The automobile—you could tell by the automobile.

Q How could you tell by the automobile?

A It was an American automobile.

Q And is that the sole basis for your conclusion that they

came from the CIC?

A No, that isn't my only foundation for this assumption. Every day they came from the CIC in an automobile and interrogated people there—

Q Who did?

A And there are more accused sitting here in the dock beside me.

Q Now just answer my question and I will ask the court to instruct the witness to confine his answers to the questions that are propounded to him.

PRESIDENT: The court directs the witness to answer the question of the prosecutor directly. At the same time the court notifies the witness if he desires to make a statement at a later period, the court will give him an opportunity to do so.

PROSECUTION: I move to strike the last statement of the accused.

PRESIDENT: The motion to strike is sustained.

QUESTIONS BY THE PROSECUTION

Q Now you say every day they came from the CIC to interrogate prisoners. Who was it that came every day from the CIC?

A The same three gentlemen.

Q And how do you know that they came from the CIC other than the fact that they had an American automobile?

A When I was called from my barracks on the 22nd of July, the way I was told about it was you have got to be interrogated by the CIC.

Q And who told you that?

A That was the guard at the gate.

Q Now will you describe, please, the physical characteristics of the Pole that beat you—that you say beat you?

A All three of them were well built, strong.

Q How much did they weigh?

A I don't know that.

Q Well, what is your best judgment about it?

A Certainly at least 70 kilos.

PRESIDENT: The court will take a 30-minute recess.

(Whereupon the court recessed at 1030 hours.)

(Thereupon the court reconvened at 1040 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all personnel of the court are present, all personnel of the prosecution are present with the exception of Mr. Berkowits, who is absent on business of the prosecution; all personnel of the defense are present with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused, and all the accused are present with the exception of Jakubith, Rimbusch, Buddensieg, Oswalt, Olschewski and Meye who are sick in the hospital, Schubert who is conferring with his counsel, and Ginschel who is at the dentist.

The interests of all those accused who are absent are being taken care of by counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of recross examination.

JOSEF HAUSER, an accused, resumed the stand and testified further through an interpreter as follows:

RECROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Now you stated, Hauser, that these three men that beat you weighed approximately 70 kilos. Will you please describe to the court the color of the hair of the Pole?

A One was black-haired.

Q The Pole?

A It wasn't exactly a Pole. It was an American uniform he was wearing. They merely used the Polish language.

Q Did you state that he was a Pole to this court?

A Yes.

Q All right, then tell me the color of the hair of the Pole.

A Dark blonde.

Q What color eyes did he have?

A I don't know that.

Q Well, he beat you there, did he not?

A Yes.

Q You got close to him, did you not?

A Yes.

Q You had an opportunity to look at his eyes, did you not?

A Yes.

Q And you can't tell the court the color of his eyes?

A He had about the same kind of eyes as I do.

Q I don't know what kind of eyes you have. Will you please tell the court the color of his eyes?

A Sort of blue.

Q All right, what was the color of the hair of the Czech?

A They were black—black hair.

Q The color of his eyes?

A A sort of brown color—light brown.

Q And the color of the hair of the Serb?

A The same is the first man.

Q And how was the Serb dressed?

A American uniform.

Q And how was the Czech dressed?

A Also American uniform.

Q Did they strip you at the time they beat you?

A No.

Q And who was the first one to beat you?

A That was the Pole, I believe.

Q And then who beat you next?

A All three beat me at the same time.

Q Well, who was the first one to beat you with the rubber hose?

A I can't tell you that, anymore.

Q What did the others beat you with?

A They took a boxer's position.

Q Did you strike them?

A No.

Q Were you tied?

A No.

Q How long did they beat you?

A I believe, certainly, 2 to 3 hours.

Q And during that time did they say anything to you?

A Yes.

Q And what did they say to you?

A They asked me whether I had beaten anyone in my own interests?

Q And what did you say?

A I said I can't say that because I didn't do it.

Q And because you said that they beat you for 2 or 3 hours, is that right?

A That is what I assumed.

Q Assume--you were there, were you not?

A Because I didn't admit anything; they were beating me because I wasn't admitting what I was supposed to have done according to them.

Q Were they former prisoners in Flossenburg?

(Hauser - Recross)

A No.

Q Had you ever seen them before?

A No.

Q Was there any man there who spoke English?

A Yes, all three of them spoke English. Every day after the interrogation was finished, they came back into the camp--into the shoemaker's shop and the tailor shop.

Q And did any American speak to you at the time you were being beaten?

A I don't know whether they were Americans or not.

Q Well, did anyone else besides these three men speak to you at the time you were being beaten?

A No.

Q And did anyone else besides these three men beat you?

A On the 16th of January.

Q You mean when Mr. Berkowitz beat you like you beat your prisoners, is that right?

A Yes, he boxed my ears twice--Mr. Berkowitz.

Q And at this time in July, the only three that beat you were the three you described to the court?

A Yes.

Q And you never were brought before any American officers, is that correct?

A I don't know whether they were officers, or not. Before the door in front of the office there was a sign CIC and some names, but I don't know names anymore.

Q Did you read these names?

A Yes, but I can't remember what names they were. Perhaps others could tell you who were with me in Natternberg.

(Hauser - Recross)

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. MC KAY: No further questions.

PRESIDENT: Dr. Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Did I understand you correctly, Mr. Hauser, when you said you were with 4 people who were killed by having their throats cut on this trip?

A Yes.

Q Where was that?

A Roting, near Kamm. It was a woman and three men.

Q What four people were they?

A Foreigners.

Q Were they prisoners, that is what I mean?

A I don't know. They were wearing civilian clothes.

Q What did you have to do with these 4 other people?

A They met me in Mildach, near Kamm. We were supposed to travel to Nurnberg.

Q And who was it that killed these people?

A They were foreigners.

Q What kind of foreigners?

A Russians.

Q What was the reason for this deed?

A I don't know that.

Q And how did you get involved in it? How did that happen?

A I escaped twice, the second time they had cut my throat and thrown me into the water unconscious, and I got out of the water. They thought that I was dead. They threw me into the Ragen River, into the water, and I gradually regained consciousness.

Q Did I understand you correctly when you say that you yourself were cut on the throat?

A Yes.

Q Can you still see that today?

A Yes (indicating).

Q Is this scar from that incident?

A Yes, there are 4 scars.

Q And because of this incident you ended up in the hospital, is that right?

A Yes.

Q Where did the Russians come from then?

A They were together in Moting.

Q When was that?

A 12:30 or 1 o'clock in the afternoon on the 14th of May, 1945.

Q These Russians, were they prisoners or were they soldiers, or what were they?

A They were no soldiers.

Q What were they?

A They were wearing civilian clothes.

Q They could have been former prisoners?

A I don't know.

Q Thank you.

PRESIDENT: Any further redirect?

MR. MC KAY: Nothing further, sir.

PRESIDENT: Further recross?

PROSECUTION: Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Now you said that these three men who beat you in July wore American uniforms, is that correct?

A Yes.

Q Did you notice whether or not they wore any insignia?

A On both sides of their collars, U.S.

Q Did they wear anything besides U.S. on their collar?

A I can't remember any more.

Q Now you said one was a Pole and I understood you to say that you thought he was a Pole because he spoke Polish, is that correct?

A Yes.

Q Well, are you sure he was a Pole?

A I can't say that for sure.

Q You said that they all three spoke English, is that correct?

A They all spoke English with others.

Q I understood you to say also they beat you until you were unconscious.

A Yes.

Q Now, how were you taken away from the scene of this beating?

A Two people carried me into the camp.

Q Do you know who the two people were?

A They were former ortsgruppenleiters. They were also there for interrogation.

Q Do you know the names of these two men?

A No.

(Hauser - Court)

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Q Did you sign a statement at that time?

A Not at that interrogation, no.

Q How long after that did you sign a statement?

A The 16th of January, 8 months later.

QUESTIONS BY THE PRESIDENT:

Q At the time of this investigation on the 22nd of July 1945, at or near Natternberg, were you interviewed by an American at all at that time?

A I was interrogated on the 22nd of July.

Q At the time of that interrogation, were you asked questions or did you come before any American at all?

A They went and got me and I was brought immediately to the room where the three people of the CIC were and they interrogated me.

Q Now, you mentioned about the 3 people of the CIC, how do you know they were CIC men?

A There was a sign on the door, CIC. Also inside the camp the shoemaker told me they were people from the CIC. He had made cartridge belts for them and in June when the barracks was put up, the word went around that the CIC was going to be in there.

Q But you can't give the court the names of these particular three men that interviewed you at that time?

A No, I can't. Perhaps someone else can.

Q Now the court understands that on that particular occasion then, you were not interviewed by any particular American, is that correct?

A I can't say whether that was Americans or not.

Q But you previously mentioned before the court that as far as you know, one was a Serb, one was a Pole and one was a Czech, is that correct?

(Hauser - Court)

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A Because they used the languages.

Q Now referring to this interrogation by Mr. Berkowitz, you mentioned that Mr. Berkowitz boxed you on the ears, the right ear and the left ear?

A Yes.

Q Was that done with an open fist or with a closed fist?

A With his open hand; one box on the ear with the open hand; the second box on the ear with the back side of the hand.

Q You were not knocked off your feet at all?

A No.

PRESIDENT: Any further questions, members of the court?

QUESTIONS BY COLONEL JACKSON:

Q Do you speak Polish?

A I understand a few words.

Q Do you speak English?

A No.

Q Do you speak Czech?

A I can understand a few words; also Jugoslavish.

Q Serbian?

A No, I can't understand that either, but after you have been in camp for 5 years and come together with people from all nations, you can recognize languages and understand a few words.

QUESTIONS BY LT. COL. BURCHAM:

Q This camp where you were first taken to after the hospital, what was that? What was it called?

A It was Natternberg near Deckendorf.

Q Who were the inmates?

A- They were Kreisleiters, also SS.

Q Were they in uniform?

A The SS did; the Kreisleiters, they were wearing the civilian clothes.

Q This man who came and got you in the camp and took you up to the gate, was he in uniform?

A No.

Q How about that black uniformed man on the outside, do you remember his name?

A I don't know.

Q What was that, an SS uniform?

A As I already said, it was the camp uniform we wore. When we were in the camp we received camp clothing. Black trousers and a black blouse.

Q And that was the American uniform that had been dyed?

A I don't know that.

Q What kind of material was it?

A Black cloth.

Q What was the material, woolen, silk, cotton, or what?

A Made out of linen.

Q Herringbone--you might call it herringbone twill.

A No.

Q It wasn't a denim that had been dyed?

A No.

Q You don't know who the man was ?

A No. It was a tall, gaunt man.

Q German?

A German.

Q He was not an inmate of the camp?

A Yes.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q Referring again to these 3 men who beat you, you stated that

they wore a U.S. on their collar.

A Yes.

Q All three of them?

A Yes.

Q Did they wear any insignia of rank?

A I don't believe so. I can't tell you for sure.

Q Well, you know the color of their hair, the color of their eyes, and you didn't see any insignia of rank?

A I don't believe so.

Q Who was it that was wearing the gold star?

A That was in Aamm when I was arrested.

Q That was not one of those who beat you?

A No.

Q That is all.

QUESTIONS BY THE PRESIDENT:

Q This man in the blue uniform at the gate, what kind of insignia did he have on?

A None.

PRESIDENT: Any further questions by members of the court? Apparently not. The defense, anything further?

MR. MC KAY: No.

PRESIDENT: Prosecution?

PROSECUTION: No.

PRESIDENT: Dr. Wacker.

DR. WACKER: I would like to have the record indicate that the accused here on the witness stand has scars which are visible on his neck and the accused gave for the reason of these scars the attack by the Russians.

PRESIDENT: Prosecution.

PROSECUTION: I have no objection except that it is immaterial and irrelevant.

PRESIDENT: The record will so indicate, Dr. Hacker.

PRESIDENT: Do you have anything further so far as this witness is concerned?

DEFENSE COUNSEL: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and resumed his place in the dock.)

PRESIDENT: The court informs the prosecutor at the present time to notify Mr. Berkowitz when he is available that the court will desire to have him called by the court because of the testimony given by Mr. Hauser with respect to this investigation.

PROSECUTION: Yes sir.

MR. MC KAY: The next witness is being called on behalf of the accused No. 48. Call Ludwig Balow.

LUDWIG BALOW, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you state your name to the court?

A Ludwig Balow.

Q Will you spell your last name?

A B-a-l-o-w.

Q Balow, where are you now residing at the present time?

A My family, my wife, live in Flossenburg.

Q Where did you, yourself live?

A I am here in camp 3. When I get through here, I go back to Flossenburg.

Q Are you now being retained here in Dachau?

A Yes, in Dachau.

Q Are you being retained by the American authorities?

A What do you mean by that?

Q Are you now in the custody of the American authorities?

A Yes.

MR. MC KAY: If it please the court, due to the fact that this man is in confinement, I think it advisable to notify him of his rights at this time.

PRESIDENT: Due to your present status, the court desires to advise you that if you should be asked any question that might tend to incriminate you, you may ask the court to refrain from answering that question. Do you fully understand your rights in that respect?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. MC KAY (Continued)

Q Mr. Balow, were you ever a guard at the outcamp of Holleischen?

A Yes.

Q You know whether that camp had any connection with Flossenburg Concentration Camp?

A I was also in Flossenburg. Holleischen belongs to Flossenburg.

PRESIDENT: Mr. Mc Kay, will you have the name of that camp spelled out?

Q Will you spell the name of that camp?

A H-o-l-l-e-i-s-c-h-e-n.

Q Now when you say Holleischen was connected with Flossenburg, what do you mean?

A Flossenburg had a number of outcamps and Holleischen was dependent on Flossenburg as the mother camp.

MR. MC KAY: Mr. Below, I must advise you to speak up loud enough so everybody in the courtroom can hear, and face the court directly. Direct your statements to the court.

THE WITNESS: I understand.

Q When were you at the outcamp of Holleischen?

A I was in the outcamp Holleischen from the beginning of April '44 until my imprisonment on the 4th of May, '45.

Q Will you describe for the court what work details were located in this outcamp of Holleischen?

A The outcamp Holleischen was for the most part a women's camp.

Q When you say, for the most part a women's camp, what do you mean?

A Because there were 800 women.

Q Were there ever any men kept at Holleischen?

A They were only there temporarily.

Q And when did they arrive?

A I can't give you the exact date--in the fall of '44 they arrived and in January '45 they shoved off again.

Q Now will you explain to the court what details the men who came to Holleischen worked on during the period of time that they were there?

A The men were sent there because of work. They had to enlarge a shooting range.

Q What connection did you have with the men who were sent to Holleischen to work on this detail you have just described?

A I often had to guard them and I had to take over the detail although there was a detail leader who had the whole camp under his orders. I would also have duty with the women. Sometimes I would work with men, sometimes with the women.

Q Now in what capacity were you at Holleischen? Were you a civilian or what?

A As a soldier.

Q And what kind of a soldier were you?

A SS Staff Sergeant.

Q Now during the time that you were at Holleischen, did you ever come in contact with a prisoner by the name of Weilbach?

A Yes.

Q Will you explain to the court just the nature of your connection with Mr. Weilbach in Holleischen?

A The work lasted as a rule from in the morning at 8 o'clock until afternoon at 4 or 5 o'clock.

MR. MC KAY: Let the record show that the accused Ginschel has returned to the dock.

Q Now what did you observe Mr. Weilbach doing during the time that you were in Holleischen?

A He had this work outfit consisting of the men under his command. They were moving earth around.

Q Now what was Mr. Weilbach's status?

A He was capo.

Q Do you know whether or not he was a prisoner?

A I didn't understand.

(Whereupon the question was repeated by the interpreter.)

A He was a prisoner.

Q Now when you describe him as oberoapo, will you explain to the court just what you mean?

A He had the whole works under his command.

Q How many men did Weilbach have under his control at Holleischen during the time that you knew him?

A Around 200 men.

Q In the performance of your duties, did you ever have occasion to observe Mr. Weilbach working with prisoners on his detail?

A He took care of the distribution of the labor, of the work.

Q Did you personally ever see him working with his detail of men?

A Yes.

Q Can you give the court any idea of the number of times that you observed Mr. Weilbach working with the detail of men?

A That was a number of times a week.

Q Did you on those occasions have an opportunity to observe how he treated the prisoners who worked under him?

A Yes.

Q What was the nationality of the prisoners who worked under Weilbach at that time?

A There was a small number of Czechs and a still smaller number of Frenchmen, most of them were Poles and Russians.

Q Now will you describe for the court just what you saw with regard to Mr. Weilbach's treatment of the prisoners that worked under him?

A The terrain was long and spread out and Weilbach would place a group of workers here and over here to do the work and he would go from one to the other to check the work (indicating).

Q Did you see anything else? Just describe as best you can what you saw Weilbach do when he was with these prisoners as far as treating them in any way.

A Weilbach went around from one place to the other and kept an eye open for the supervisors, and the supervisors would come around to see how the work was going on. The supervisors praised Weilbach

because they said that the work was going well.

Q How long did you observe Weilbach continuing to work on this particular detail that you have described?

A That was in one week, perhaps 2 or 3 days, that all depended. It depended on the particular work outfit. There would be a different man in charge one time and an other later. Once I would work with work outfits with men, and then I would have to go with the women.

Q Now during the time you were working with Weilbach, describe for the court how Mr. Weilbach treated the prisoners himself.

A As far as Weilbach being together with the prisoners is concerned, I can say nothing more except that the prisoners were treated decently--treated well.

Q Now what do you mean when you say that the prisoners were treated decently and well?

A I want to say that our commando leader was very severe and if anything occurred when Weilbach or I were in charge, we would be punished for it.

MR. MC KAY: Will you mark this document Defense Exhibit No. 9 for identification?

(The document referred to was marked Defense Exhibit No. 9 for identification.)

Q I now hand you a diagram which has been marked Defense Exhibit 9 for the purpose of identification. I will ask you to examine this and see if you can determine what it is.

A That is the camp Holleischen.

Q Does that diagram include anything more than the actual camp itself?

A The women's camp should be here more over on the side (indicating). The men's camp was more toward the back. We had to go

in an oblique direction to get from the women's camp to the men's camp.

Q Now will you mark on this diagram what apparently is intended to represent the women's camp by a "X" and the letter "F"?

A (Indicating) Around here.

Q Now I want you to mark on the diagram itself what you see there which represents as far as you know, the women's camp. Mark it with an "X" and an "F".

A (Indicating).

Q Now will you complete that by drawing lines and mark in each corner the letters "X" and "F" which you indicate as the women's camp?

A (Indicating).

Q Now will you mark on this diagram which has been identified as Defense Exhibit No. 9, the camp which was used for men in Holleischen?

A That was the old location for the men's camp (indicating).

Q Now will you mark on that diagram in the place which you think represents the men's camp an "X" with the letter "M"?

A (Indicating).

Q Were you in camp Holleischen on Christmas eve of the year 1944?

A Yes.

Q Will you explain to the court what if anything out of the ordinary you observed in camp Holleischen at that time?

A An orchestra had been founded mostly in the men's camp in Holleischen and the instruments had been borrowed from the factory.

Q Was that all that was unusual at that time?

A A Christmas tree was put up with electric lights on it in front of the entrance to the men's camp there.

Q Now will you describe for the court what you saw around that

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Christmas tree if anything?

A There wasn't anything unusual around the Christmas tree.

Q Will you describe for the court how far that Christmas tree was located from the road?

A I estimate 6 to 8 meters.

Q Now calling your attention again to the diagram which has been marked for identification as Defense Exhibit 9, I ask you to mark with an "X" and a "C" anything you feel represents the Christmas tree which you have just described.

A (Indicating).

Q Now on this same diagram which has been marked for identification as Defense Exhibit No. 9, will you indicate the main roads that ran by the men's camp with a dotted line?

A (Indicating).

Q Will you indicate the entire street area with the dotted line?

A (Indicating) Here I made some dots, and here is another dotted line.

Q Now connect those up so they make a dotted line.

A You mean some more dots here?

Q Yes, so that you portray the streets that surrounded the camp by the dotted lines.

A (Indicating).

Q Now from your dotted line which you have just placed upon the diagram which is marked for identification as Defense Exhibit 9, I observe that you have streets on 3 sides of the camp--men's camp, is that correct?

A Yes.

Q Now will you describe for the court the construction of the

enclosure that enclosed the men's camp?

A The men's camp was surrounded with a barbed wire fence which was drawn parallel to the earth.

Q How will you describe for the court how close those wires were together?

A Around 20 to 30 centimeters apart from each other.

Q Did you ever walk along the street that surrounds the camp?

A First of all there was the ditch which ran along the street and then the barbed wire fence.

Q How did you personally ever walk along the street on the outside of this barbed wire enclosure that surrounded the men's camp?

A Yes.

Q How will you describe for the court how much you could see in the camp from the street through this barbed wire enclosure that you have just described?

A When I was standing at the main gate of the quarters for the men, I could look into the whole enclosure--the whole entire interior of the men's camp.

Q How will you explain for the court the amount of people that used the streets that surrounded this camp about the time of Christmas eve of 1944, if you can?

A I can't tell you that because Christmas eve, we had our own celebration and we didn't go out.

Q How will you explain to the court the general direction from the camp that the factory of Holleischen was located?

A I don't know the points of the compass in regard to this location so I can't tell you how it would be coming out of the camp, but going along the street here which goes to the factory, you make a large curve which leads into the factory, and the factory was located in a forest.

(Below - Direct)

Q How far was the factory from the men's camp itself?

A Around 20 minutes to the factory.

Q Now in this particular factory, do you know whether there were any people employed other than prisoners?

A Yes.

Q Now do you know whether these people who went to work in that factory passed the men's camp in December of 1944 in order to get to work?

A Yes, the whole shift which worked in the factory had to go past the men's camp.

Q Do you know whether that was true on the 24th of December, 1944?

A Yes, I can't remember, however, whether they themselves were having a celebration then.

Q Do you know whether there was any kind of a celebration for the prisoners in the men's camp at Holleischen on Christmas eve of 1944?

A Yes.

Q Describe that for the court.

A The chief capo had some flour on storage and he had them make cakes from the flour.

Q When you speak of the oberocapo, who do you refer to?

A That was Heilbach.

Q All right, proceed.

A Cakes were baked for all the male prisoners.

Q You know whether these were distributed among the prisoners?

A I don't know that because I didn't see it.

Q Do you know of any other preparations that were made for Christmas for the prisoners in 1944 at the male camp at Holleischen?

A No.

Q During the time that you were at Molleischen, did you ever know of prisoners who died on the detail which was being worked by the men at camp Molleischen during the time that they were there?

A Yes.

Q Will you describe that for the court?

A I can't describe it. I just found out about it. I wasn't there in person.

Q Well, tell the court what you found out about it.

A I merely heard that someone was supposed to have hanged himself on the firing range.

Q And how did you find out about that?

A I found out about it through the commando leader.

Q Did you know whether any investigation of that matter was made?

A Yes, there was a factory doctor who investigated the matter.

Q Anyone else?

A And then two more men were supposed to have died.

Q Did you know what brought about their deaths?

A No.

Q Now going back to this Christmas tree which was here in camp Molleischen in December of 1944, will you explain to the court whether that could be seen from the street?

PROSECUTION: I object to that, may it please the court, on the ground it is repititious. We have been talking about this Christmas tree for 30 minutes now. He has drawn pictures, may it please the court, to illustrate its location, and he has testified, as I recall, about whether it could be seen at least twice.

PRESIDENT: Repeat the question, reporter.

(Whereupon the question was read by the reporter.)

PRESIDENT: The objection is overruled.

A Yes.

Q After this detail left camp Holleischen, did you ever see Weilbach in Holleischen again?

A No.

Q Did you--do you think that you could recognize Mr. Weilbach if you saw him again?

A Yes.

Q Will you look at the men who are seated behind me and see if you can recognize the man you knew as Weilbach?

A No. 48 (indicating).

MR. MC KAY: Let the record show the witness has identified the accused wearing No. 48 as Weilbach.

Q When you say that you were detail leader, what do you mean?

PROSECUTION: I object to that as being repititious, may it please the court.

PRESIDENT: Objection overruled.

A I had charge of a work outfit with the women on occasions and on other occasions with the men.

Q Now as commando leader, did you have any control over Weilbach?

A No.

Q Do you know what Weilbach's reputation was in Holleischen with regard to treatment of prisoners?

A He had a good reputation.

MR. MC KAY: You may cross examine.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddeasieg, Lisbusch, Jaenicke, Olschewsky, Oswalt and Neve who are sick in the hospital and whose interests are being taken care of by counsel. The witness is reminded he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

LUDWIG WALOW, called as a witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q For how many months did you know Weilbach?

A In that time when he came to Rollescheins [illegible]

Q How many months was it that he worked at Rollescheins?

A From the fall of 1944 until 1st of January 1945.

Q How many months was that?

A I don't know the exact dates or months, it was four or five months.

Q Are you sure four or five instead of two or three?

A Yes.

Q When did you join the Party?

A 1 May 1933.

Q Did you join the SA?

A Around the fall of 1933 I joined the SS.

Q When did you join the SA?

A I wasn't in the SA.

Q How long were you in the death-head unit of the SS?

A Since 2 September 1939.

Q From then on to the end you were a member of the death-head unit of the SS?

A Yes.

PROSECUTION: No further examination.

PRESIDENT: Redirect?

MR. MC KAY: Nothing further.

PRESIDENT: Any questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q How old are you?

A I am now fifty three years old.

QUESTIONS BY THE PRESIDENT:

Q Did you have any service with the Wehrmacht during the last war?

A Yes.

Q How long?

A I was an inactive soldier from 1912 to 1914 and went through the war as an active soldier from 1914 until 1918.

Q What was the highest grade you held during the course of the last war?

A During the course of the last war I was a staff sergeant.

PRESIDENT: Any further questions by any member of the court? Apparently not. Any redirect examination?

MR. MC KAY: No, sir.

PRESIDENT: Any recross examination?

PROSECUTION: No, sir.

PRESIDENT: Does the court understand that the defense is finished with this witness?

DEFENSE COUNSEL: Yes, sir.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and withdrew.)

MR. MC KAY: The next witness is being called on behalf of the accused number 21. Call Rudolf Schmidt.

RUDOLF SCHMIDT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you state your full name to the court?

A Rudolf Schmidt.

Q Will you spell that?

A S-c-h-m-i-d-t.

Q Where are you now residing?

A Flossenburg.

Q Where are you actually living yourself at the present time?

A Flossenburg, 139.

Q Are you at present being retained here in Dachau?

A Yes.

Q Where are you being retained in Dachau?

A In the bunker.

Q Are you being held by the American authorities?

A No. UNRRA is holding me.

Q Then you are not being held here in connection with the Flossenburg case?

A Yes. The UNRRA official in question came to me and told me in Flossenburg that he was commissioned to bring me to Dachau in connection with the Flossenburg case. I don't know whether as an accused or a witness.

Q You are now being held here because of that?

A Yes.

Q How long have you been here in Dachau?

A Since the 8th of June, 1946.

Q Now, ----

PRESIDENT: Mr. Mc Kay, the court feels it necessary for you to clarify the witness' situation a little more thoroughly, at the present time, if possible. The court is not clear as to whether he is at Dachau simply in the capacity of a witness or whether he is facing charges. What is the situation there?

QUESTIONS BY MR. MC KAY:

Q Do you know whether you are being held under any kind of charges at all?

A That is completely unknown to me.

Q Were you ever interrogated by anybody here other than by yourself?

A Yes. A Captain Seanger interrogated me here in regard to my personal data.

Q When was that?

A The end of July.

Q What year?

A This year, 1946.

Q At that time were you interrogated with regard to your connection with Flossenburg?

A Yes. They merely asked me what I was doing there. No accusations were made against me and no reason was given why they brought me here.

Q Have you ever been confronted with any people from the Flossenburg Concentration Camp for identification purposes?

A No, not that either.

Q All right.

PRESIDENT: The court feels it necessary to advise you of your rights. If you should be asked any questions that might tend to incriminate you, you may request the court for permission to refrain from answering the questions of that nature. Do you fully understand?

THE WITNESS: Yes, sir.

PRESIDENT: Proceed, Mr. Mc Kay.

QUESTIONS BY MR. MC KAY:

Q Mr. Schmidt, were you ever in the Flossenburg Concentration Camp?

A No. I was merely in the factory of the German Earth and Stone Works.

Q Do you know whether the factory of the German Stone and Earth Works had any connection with Flossenburg?

A Yes. The workers were taken from the concentration camp for the factory.

Q In what capacity were you employed by the German Stone and Earth Works?

A I had the technical department.

Q What is your trade or profession, Mr. Schmidt?

A A technical stone cutter.

Q How long have you followed your profession?

A Since 1919.

Q When did you begin to work for the German Earth and Stone Works at Flossenburg?

A 1 June 1942.

Q How long did you remain there?

A Until the end.

Q When was that?

A Until the collapse.

(Schmidt-direct) 3072

Q Can you give us the date of that?

A In Flossenburg, 23 April 1945, Flossenburg was occupied.

Q During the time that you were in the employ of the German Earth and Stone Works in Flossenburg, where did you actually perform your duties?

A In the technical dept, the technical office.

Q Where was that office located with regard to the quarry?

A That lay above the quarry.

Q During the time that you were in the employ there did you have occasion to go into the quarry at all?

A Yes, every day.

Q What was the purpose of your visit to the quarry daily?

A I had to dispense the work and check the work with regard to neatness and efficiency.

Q Did you ever come in contact with a prisoner in the quarry at Flossenburg by the name of Jakubith?

A Yes.

Q Will you describe for the court the nature of your acquaintance with Jakobuth?

A When I learned to know Jakubith in 1942, he was working as a stone cutter.

Q Where did he work at that time?

A He worked under the direction of the undermaster Benkner.

Q During the time that you knew Jakubith in the stone quarry did he hold the same position all the time?

A No.

Q When did he come into the quarry?

A I believe that he come into the quarry in the beginning of 1943, in the spring as a capo.

Q When you say "capo" what do you mean?

A In German we say supervisor.

Q What was Jakubith's status, was he a civilian employee, a prisoner or an SS man?

A Jakubith was a prisoner.

Q Do you know how long Jakubith continued to be a capo in the quarry?

A He was in that capacity until the prisoners left.

Q Do you know in what particular part of the quarry Jakubith was a capo?

A In quarry one.

Q During the time that Jakubith was capo in quarry one, did you have any association with him?

A Not really because I had to give the work orders to the civilian masters.

Q Did you come in contact at all with Jakubith during the time he was a capo and you were working there?

A Yes. Once in a while I talked to him.

Q Will you explain the nature of your association with Jakubith while you were there and he was a capo in quarry one?

A You cannot really say it was an association.

Q Explain the relationship you had with him at that time?

A For instance, if I came into the quarry and the civilian masters were away for the moment then I would ask Jakubith for information and things of that nature.

Q During the time that Jakubith was a capo did you ever observe him working with his prisoners?

A As a capo he did not work.

Q What do you mean, "as a capo he did not work"?

A Because he had the supervision. His work detail was scattered around quite a bit and the quarry was rather large.

Q Did you ever observe how Jakubith treated the prisoners who were working under him?

A Yes. I saw that they were hit by him a few times but whenever I asked about it, it usually turned out to be a case of theft or else the party in question was absent from work.

Q Will you describe those beatings to the court as best you can.

A Once I came into the quarry and a gypsy was being beaten. I asked why he was being beaten and the SS man told me that in the camp the gypsy had taken the whole bread ration -- he had stolen the bread rations of his comrades.

Q Just how did Jakubith administer the beatings?

A I only saw him strike with his hand, once with his feet. That was the case with the gypsy.

Q Did you ever see any other cases?

A With the feet?

Q With anything.

A Yes. As I already said, he often gave boxes on the ears.

Q Will you describe to the court what you saw when Jakubith gave a prisoner a box on the ear?

A For instance, whenever the workout-put fell, three or four men were missing and it was up to him to hunt for them all over the terrain. It is then explainable that that made him sore, especially since the commando leader was always putting pressure on him.

Q During the time that you worked in the office, did you ever have occasion to know whether Jakubith ever came to the office or not?

A Yes. He was in the office rather often.

Q Will you explain what he would do when he came to the office?

A He usually came to the chief, Mr. Schubert.

Q Do you know what Jakubith's reputation was in the quarry with regard to the treatment of prisoners?

A You can look at that any way you want. I often asked the people who come from the camps like Mauthausen and Gross-Rosen and they said that compared to the treatment they had at those camps, Flossenburg was like a convalescent home. I didn't spend much time in the quarry. I merely went through it.

Q Do you know what was done with the sick or disabled prisoners who worked in the quarry?

A Whenever there were any reports on sick people - whenever these reports came to me, I gave them to the chief and he saw to it that these people did not go off to work the next morning.

Q During the time that you have been employed as a stone technician, did you ever work or serve in civilian quarries?

A Yes. Until the first of June 1942.

Q During the time that you were in the stone quarry at Flossenburg, did you ever make any comparison, as far as the work done by the prisoners at Flossenburg, with the work done by the prisoners in the civilian quarries?

A Yes. I kept monthly statistics with regard to that.

Q Will you explain to the court how those statistics were gathered?

A Every month statistics would be gathered in regard to work production and statistics also with regard to the amount of work which prisoners put out, comparing that with the amount of work that the civilian employees put out.

Q Can you give any idea to the court of the comparison of the amount of work done by the prisoners in Flossenburg from the time you first went there with the work done by the civilians during the same time, doing the same type of work in a private concern?

A When I first took over the technical department in 1942 the civilian employees were working about 25% better.

DR. MACHER: I believe that that was misinterpreted. I ask that the witness have a chance to explain that again - what he means.

THE WITNESS: The difference was 25% between a prisoner's work and a civilian employee's work. When a civilian employee did 100% work then the prisoners would do 25% work, that is, on an average.

QUESTIONS BY MR. MC HAN:

Q How many prisoners then, would it take, on the basis of that to do the work which would normally be done by one civilian worker?

A Four in 1942 and up until the end the out put and performance sunk down to 12 or 15 percent.

Q When the performance dropped to 12% and 15% how many prisoners would it take to do the work of one civilian worker?

A Seven to eight.

Q Will you explain to the court just where you got the information with regard to the amount of work that would be done by a civilian worker during the time that you were employed in the quarry at Flossenburg?

A It is easy to make that comparison because the pay for civilians and prisoners was drawn up according to a set form which was valid in all of Bavaria. Each peice of work would be worth so much money.

Q During the time that you worked in the stone quarry at Flossenburg, did you have the reports from other factories in Bavaria, so that you could compare them with the statistics that you made with regard to the work done in the quarry at Flossenburg?

A What kind of reports do you mean?

Q You stated that the pay schedule was uniform throughout Bavaria and what I want to know is whether you got that information while you were working in Flossenburg so that you could make a comparison with the work done in the stone quarry at Flossenburg?

A. I don't understand you there, completely. There isn't any comparison to be made. The set form was valid all over Bavaria.

A When the sick reports arrived they would come to me and I would pass them on to Mr. Schubert.

Q What connection did Jakubith have with these sick reports?

A As far as I know he, as a capo, was responsible to see that those who were incapable of working would be brought into the hospital in the camp. I was not really allowed to speak with the people because of a prohibition which the commando leader had set up.

Q Will you explain to the court just what kind of machinery you found in the quarry in Flossenburg in comparison with the machinery you came in contact with in the quarry when you were employed by civilian concerns?

A In order to perform the work we had a lot of air pressure installations.

Q Proceed.

A And in quarry one we had two cranes and such quarry there, there was one to make the work easier when things were loaded or unloaded. Then whenever there was heavy work to do, I would release the air pressure

Q How do you know about this set form that you speak about?

A I know that since my school years. That is only used in the granite industry, that is the norm for that governs the granite industry. That is especially in Bavaria.

Q Did those change during the war?

A No. This general set form lasted until 1938.

Q Is there anything else that you know about Jakubith which you acquired during the time that you knew him as a capo in quarry one?

A I often spoke with him when I had some business to do with him or he with me. For instance, there were often disputes about pay - about the prisoners' pay. He would put in a good word to get increased wages and I would pass this information on to the keeper of the pay books.

Q Is there anything else that you know?

machine to do this work. That is something which I wouldn't have been allowed in civilian quarries.

Q Can you explain to the court just how the equipment which you saw in the quarry in Flossenburg compared with the equipment which you came in contact with when you were working for the civilian concerns?

A You can regard the German Earth and Stone Works as the most modern undertaking in the Oberpfals, Mountain Range District.

Q When you say, "most modern machinery" explain to the court just what you mean?

A First of all to see to it that the work in the quarry is made easier and that the work goes smoother and that was arranged through the air compression units. We were in a spot where we could work in each corner with air pressure devices.

Q Do you know how much air pressure was used to operate the various compressors and other things in the quarry?

A In general in this particular factory, in order to operate a compression hammer you would need six atmospheres. I cannot tell you about the operation about the individual instruments in particular.

Q How much experience have you had before coming to Flossenburg working around compressors or similar equipment?

A We were working with them in Silesia in 1937.

Q Since 1937, have you constantly worked around equipment that was driven by air compression?

A No, not all the time.

Q Just how much of the time?

A In the factory in Westphalia we did not have any air pressure.

Q Have you ever been around the air hoses in Flossenburg so that you could tell how much air was moving through the hose when they were not hooked to a tool of some kind?

A No. That was a matter which only the engine master could tell you.

Q From your experience in working with air compression machines, could you explain to the court what would happen if a hose carrying six atmospheres of pressure was placed in the mouth of a man - what could be expected to happen to him?

PROSECUTION: May it please the court, I object to that on the grounds that it calls for an unauthorized conclusion on the part of this witness and that no qualifications have been shown that would enable this witness to give an opinion which is on the verge of medical testimony and as a consequence it invades the province of this court.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. MC'NAY:

Q During the time that you worked in the stone quarry at Flossenburg, did you ever observe men up on the side of the hill breaking the rock loose with a crow bar?

A Yes. Usually they were brought down with the cranes.

Q Will you explain what you saw as far as equipment that was used by the men who were actually on the side of the hill loosening the rock with a crow bar?

A On the slope of the hill they could only work with borers and with a crane and in accord with safety measures which were prescribed, the supervisors had to see to it that the workers were fastened with ropes.

Q Will you explain just what the safety devices were with regard to the ropes which were used when men were working on the side of the slope loosening rock with a crow bar?

A It is like this, there are jagged projections on the Obe pfals and the ropes are tied on to these and the two other ends on the party in question - he is tied around the waist and in the event that they would slip the ropes would hold him.

Q Was that ce- only used during the time that you were in the quarry at Flossenburg?

A Yes. It had to be done when the conditions demanded it.

MR. WACKER: I believe there was a mistake in the interpretation. But two sentences have already gone by since then. It was the question where the hooks on the mountains was discussed.

PRESIDENT: Will you clarify that Mr. Mc Kay?

QUESTIONS BY MR. MC KAY:

Q Going back to the ropes that were used to hold a man, will you explain and describe just what precautions were taken with regard to the ropes as it was fastened around the man while he was working on the side of the hill?

A That is very simple. When a man has to work on the slope of the hill, the rope was fastened to an eye-hook on the cliff and the other end was fastened around his waist.

MR. WACKER: I don't know whether the world "cease" was translated right.

THE WITNESS: You can also talk about a loop.

QUESTIONS BY MR. MC KAY:

Q Was this practice commonly used in the quarry in 1945 and up to 1948?

A Yes. Whenever it was necessary. If it had not been taken care of the civilian masters would have been responsible for it.

Q All right.

MR. MC KAY: May it please the court, I had expected that one of the accused would have returned to the court prior to this time. He is in the hospital for treatment and as a result we cannot complete the identification by this witness at the present time. I would respectfully request this court to permit me to hold this witness here for the remainder of the afternoon so that, if necessary, when the accused returns, we can complete the identification.

PRESIDENT: That request will be granted. The accused may be back by that time.

PROSECUTION: I will stipulate with defense counsel that the witness knows the accused Jakubith.

MR. MC KAY: Then let the record show that it is stipulated between the prosecution and the defense that this witness, if Jakubith were present, would have identified accused number 21 as Jakubith. You may cross examine.

PRESIDENT: The court will take a short recess in place.

(Thereupon a short recess was taken.)

PRESIDENT: The court will come to order.

MR. MC KAY: Let the record show that the accused Noye, Jakubith and Misbusch have returned to their seats in the dock.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Mr. Schmidt, you have had occasions to admonish or warn Jakubith about his treatment of prisoners have you not?

A Yes. We were just talking about the case of the gypsy, but when I found out the reason for it I kept still.

Q While you knew Jakubith, did he drink?

A Not that I knew of because during working hours it would be scarcely possible.

Q Were you ever present at a time when the prisoners were paid by Kueffner?

A That is the keeper of the pay books that did that. Was I ever there when the prisoners were paid?

Q Were you ever there when the prisoners were paid by Kueffner?

A Yes. I believe once or twice in the whole three years.

Q Do you recall an occasion when Jakubith was there at the time?

A As a capo? Usually, yes.

Q Do you recall what he did to two prisoners on that occasion?

A I don't know that.

Q Do you recall how he kicked two prisoners so that they fell down during an occasion when the prisoners were being paid off by Kueffner?

A As I said before, I was only there once or twice. I cannot remember that.

Q You do not recall that at all?

A No. I don't believe that I was present at such an occasion in the quarry at all. I was present on such an occasion in the halls.

Q Did you see anything like that take place in the halls?

A It was the duty of the capo when people were being paid to call them up according to number and that was all the capo had to do. Whether the last keeper of the pay books did it differently or not, I don't know.

Q You were testifying with respect to the connection of the German Earth and Stone Works to the Concentration Camp of Flossenburg. I will ask you this question, is it not a fact that the Flossenburg Concentration Camp received money from the German Earth and Stone Works for the labor that was performed by the prisoners?

A A certain percentage or part was calculated daily for the prisoners. I don't know the exact amount on each one. I believe that a specialist would get 4½ marks daily and a helper or assistant worker would get 1½ marks but I don't know exactly.

Q But a certain percentage of the money was allocated to the daily prisoners and another percentage was allocated to Flossenburg Concentration Camp, is that right?

A The prisoners got value coupons from us for 6½ of their pay.

Q What happened to the rest of the pay that the prisoners did not actually receive?

A I don't believe there was much left over because that is what you could tell by looking at the production statistics.

Q I believe you stated, did you not, that 60% was paid over to the prisoners and that in value coupons, is that not correct?

A Yes. In value coupons.

Q What happened to the other 90%?

A First of all this 40% marks which the camp calculated daily for the specialist work --- as far as I know there wouldn't be much left over. In comparison to the production, I don't know for sure because I didn't keep any books.

Q Just one minute. I do not know whether you understood me. Did you not testify a moment ago that a prisoner received 60% of his pay in coupons?

A Yes, in coupons.

Q All right. Did he receive the other 90%?

A No. He didn't get that. Part of that would be given to the camp.

Q Now, what part of that would be given to the camp?

A I don't know exactly, Mr. Becker should know about that.

Q Mr. Becker is not on the witness stand now, so, will you please answer the question as best you can?

A I did not have anything to do with bookkeeping.

Q You have just testified that one part went to the prisoner in value coupons and one part to the camp, where did the rest go?

A Whatever was left over, I believe, up until December 1942 went to the chief administration in Berlin. When production slumped we actually worked at a loss.

Q You testified that a civilian employee was able to perform 25% more work than a prisoner, is that correct -- in 1942?

A That is not right.

MR. WALKER: I do not believe that the prosecutor wished to express himself like that. I don't believe that is right.

(Schmidt-cross)

PROSECUTION: Will you read the question?

(Thereupon the question was read by the reporter as follows:

"Q You testified that a civilian employee was able to perform 23% more work than a prisoner, is that correct -- in 1942?")

THE WITNESS: No.

DR. MACHER: I will have to withdraw my objection against the translation, it was translated correctly but that is not what the witness had said.

QUESTIONS BY PROSECUTION:

Q There is a difference of 23% between the amount of work that a prisoner performed and the amount of work that a civilian employee did perform, is that correct?

A I believe that the question has been expressed incorrectly. I will repeat it. Here is the way it is. When a civilian employee in 1942 did 100% work the prisoner would do 23% work.

Q In making your computations to determine this comparison did you take into consideration the fact that these prisoners were beaten while they were on the job?

A No, I did not.

Q In making your comparisons did you take into consideration that these prisoners were not performing because they were not receiving the proper amount of food to sustain human life?

A No. The purpose of the statistics was to prove to Berlin what the prisoners were doing and what kind of work they were doing.

Q How many hours a day were the prisoners working, Mr. Schmidt?

A That all depended. When there was a thick fog they only came at noon or did not come at all. In the summer they worked from seven to twelve and from one to five. In the winter time it all depended on how soon it got light in the morning - from 8 or 9 o'clock in the morning until 4 o'clock in the evening at most.

Q Did they ever work twelve hours a day?

A Not in the quarry, not when I was there.

Q You were there from the 19th of June 1942 until the end, were you not?

A Yes.

Q At no time during that period did they work 12 hours a day?

A We never worked 12 hours during the time -- this time in the quarry.

Q To what do you attribute the fact that the work dropped down to 12% or 13% per prisoner?

A The transports arrived and the people on these transports were in such bad shape that they couldn't perform any work anymore. In the second place we in the administration did not put any pressure on them.

Q They were still required to go to work, were they not?

A Yes, they had to work but whenever we had an amount of work which had to be done in a hurry we would withdraw one person and put someone else in their place so that the work could be done.

Q In spite of the poor physical condition of these prisoners they were still required to work in the quarry, is that correct?

A Yes, they worked.

Q What methods were used to urge them to do their work?

A They came in the morning according to commandos - in groups and they would go to their work and came to the quarry.

Q How were they urged to work?

A There would be a foreman or a civilian employee there who would divide the work up among them.

Q How would the foreman bring about the results?

A Sometimes they would use blows, it all depended.

PROSECUTION: No further questions.

PRESIDENT: Court will take a half hour recess.

(Whereupon at 1500 hours the court recessed.)

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(Thereupon court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Mr. Pinter and Mr. Berkowitz, who are absent on business of the prosecution, all the personnel of the defense are present, with the exception of Colonel Wilson, Major Oeding and Mr. Hall, who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Mattling and Fahrmbauer. The last two named accused are conferring with their counsel and the other accused are sick in the hospital.

The witness is reminded he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, will they please leave the courtroom?

RUDOLF SCHMIDT, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

PRESIDENT: Continue your cross examination, Colonel Denson.

PROSECUTION: Sir, I completed it.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Mr. Schmidt, during the time that you were in the stone quarry, did you ever observe the accused Jakubith using any means to force his prisoners to work?

A Yes, he called their attention to the fact that they had to do their work and he had one or two foremen under him who had the same task.

Q Did you ever observe him do anything else than urge his

prisoners to work by talking to them?

PROSECUTION: I object to that question, may it please the court, on the ground that it assumes that the only thing he did was talk to them.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. McKAY:

Q Just describe for the court what means you saw Jakubith use to urge his prisoners to work.

A As often as I could observe, and that wasn't often, I would only go through there once a day, -- he would drive his men to work with words and if someone hid he would get a box on the ear.

Q Did you observe anything else?

A No.

MR. McKAY: That is all.

PRESIDENT: Recross?

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q The court understands that you were in Flossenburg from June, 1942 until April 23, 1945. You had a good opportunity to observe what was going on there, did you not?

A Yes, I did.

Q You were able to observe how these prisoners were treated?

A Yes.

Q You had an opportunity to observe what kind of food the prisoners received?

A I only saw the food they got at noon, only the food they got at noon and at breakfast.

Q During the course of your testimony you mentioned certain statements made by certain other specified persons comparing

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Flossenburg with other concentration camps?

A Yes, but the only point involved there were working matters. He didn't talk about food.

Q You testified as to certain statements made by other individuals to the effect comparing Flossenburg with other camps, that it was more or less of a convalescent home. What the court wants to find out, as you had been there three years, whether you had a chance to observe whether it was a convalescent home.

A No, it was not a convalescent home but I didn't see any other camp.

Q In answer to a question by the defense counsel you testified as to the reputation of Jakubith with respect to the treatment of prisoners.

A Yes.

Q The court desires you to give a concrete and concise statement covering that particular matter, -- in other words, Jakubith's treatment of the prisoners.

A As I already mentioned, once in a while he would give a box on the ear, but on the other hand, he gave himself a lot of trouble to bring any troubles to a peaceable solution.

Q Then you never saw him go any further than a box on the ear, is that it?

A And he kicked a Gypsy with one foot once.

Q You only saw that happen the one time with that Gypsy?

A Yes.

Q Did you ever see him follow any other methods in the treatment of prisoners?

A No, I didn't see any.

Q How often did you see Jakubith with his detail?

(Schmidt-Court)

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A Almost every time when I was in the factory.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q During the time that you were at the quarry you have told us about quarry number 1. Was there a quarry number 3 and 4?

A 2, 3 and 4, yes.

Q You worked in 3 and 4?

A Right after I started my duties there they were put out of commission.

Q Then you saw nothing of it, is that right?

A After the armament factories were put up the activity ceased considerably.

Q Did you ever inspect quarries number 3 and 4?

A Yes.

Q How were conditions there?

A They were the same conditions. It was all the same works. It was just divided up into different sections.

Q What detail worked there?

A I can't remember any more today.

Q You have mentioned a conversation or several conversations that Jakubith had with a Mr. Schubert. What was the nature of these conversations?

A As far as I know, he often came to him trying to get cigarettes for the people and to report sick people that were to be transferred.

Q From your observation of him in his treatment of prisoners, would you have preferred to work under him had you been a prisoner?

A No, I wouldn't like to.

PRESIDENT: Any further questions by members of the court?

(Schmidt-Court)

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QUESTIONS BY LT. COL. BURCHAM:

Q Who owned the German Earth and Stone Works?

A Who it belonged to?

Q Yes.

A As far as I know it was a company with limited backing and it was under the supervision of the national leadership of the SS.

PRESIDENT: Any other questions? Apparently not. Redirect?

MR. McKAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: No further questions.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: The next witness is being called on behalf of the accused number 23. Call Erich Neumann.

ERICH NEUMANN, called as a witness for the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name to the court?

A Erich Neumann.

Q Where are you at present residing, Mr. Neumann?

A In Camp 3 here.

Q Is that here in Dachau?

A Dachau.

Q Are you now being held by the American authorities?

A Yes.

PRESIDENT: You are advised that at any time you should be asked a question which might tend to incriminate you, you have a right to ask the court for permission to refrain from answering.

THE WITNESS: Yes.

PRESIDENT: Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. McKAY:

Q Mr. Neumann, were you ever connected with the Flossenburg concentration camp?

A Yes.

Q In what capacity were you connected with Flossenburg concentration camp?

A I did work there.

Q What was your status in Flossenburg? Were you a civilian, a soldier or a prisoner?

A Soldier.

Q In what branch of the armed services were you then serving?

A In the guard battalion.

Q Will you explain to the court what type of soldier was in the guard battalion at the time you were there?

A I came toward Flossenburg. We stayed in Floss for two or three weeks and then we went on.

Q Mr. Neumann, you do not understand me. I want to know what kind of a soldier you were. Were you a Wehrmacht soldier, an Air Corps soldier, an SS soldier, or what kind of soldier were you?

A SS soldier.

Q What rank did you hold in the SS?

A Top sergeant.

Q When did you arrive at Flossenburg?

A Middle of February.

Q What year?

A 1945.

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Q From where did you come to Flossenburg?

A From Gross-Rosen.

Q While at Flossenburg did you ever come in contact with a prisoner by the name of Lipinski?

A Yes, I saw him.

Q Will you explain to the court the nature of your acquaintance with the prisoner Lipinski?

A I did not have an acquaintance with him. I only saw him.

Q Had you ever seen him anywhere before you saw him in Flossenburg?

A In Gross-Rosen.

Q What particular duties did you actually perform while you were an SS man in Flossenburg?

A - had work in the guardhouse at the gate and there I was taught the work with the prospect of working later in an outside camp.

Q How long did you work in this guardhouse?

A That could have been four to six weeks.

Q I direct your attention to a plan which hangs on the wall which has been marked Prosecution Exhibit 5. I ask you to come over here and I will ask you to indicate on the plan the guardhouse where you worked while you were in Flossenburg.

(Thereupon the witness left the witness stand and assumed a position near Prosecution Exhibit 5 in the courtroom.)

A It isn't here at all.

Q I call your attention to the black line which surrounds a number of blocks at the top, being blocks 7 and 8 and the brothel, and ask you, in your estimation, what that represents on prosecution exhibit 5. What does that line represent?

A That's probably the camp here (indicating), the prisoners'

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camp. Here's the entrance. (Indicating)

Q Where was this guardhouse where you worked with reference to the entrance into the prisoner compound enclosure?

A Here is the entrance to the prisoners' camp (indicating).

Q Will you indicate what one of those figures now was the guardhouse in which you worked?

A Here (indicating).

Q I hand you a pencil and ask you to mark the block which you have designated with the letter "G".

A Where I worked, here in this place (indicating).

Q Mark that with the letter "G".

A Here, in it?

Q Yes.

A (Indicating)

Q You may return to your chair.

(Whereupon the witness resumed the witness stand.)

Q Will you explain to the court what personnel worked in that guardhouse at the time you were there?

A What kind of personnel?

Q Yes.

A All the block leaders were in there.

Q Anybody else?

A Not that I know of.

Q During the time that you worked in the guardhouse at the entrance of the prisoner compound enclosure, did you ever see Mr. Lipinski?

A Yes, he marched in and out.

Q What did you observe Mr. Lipinski doing at that time?

A He marched in and out with the prisoners.

Q Did you notice whether he was in charge of any prisoners or not?

Lbb-SMM-9/23-9

A Yes, he did have, under him.

Q Will you give the court an idea of the number of men that you saw him with at the various times you saw him?

A I can't do that.

Q Can you describe for the court what you saw those prisoners doing with Lipinski?

A I can't say what kind of a detail he had. I don't know that any more.

Q Now, while you were in this guardhouse, did you ever observe the prisoners when they fell out to go to work?

A Yes, I saw them.

Q Did you see Lipinski at that time?

A Yes, I saw him also.

Q What was he doing at that time?

A He marched out with the prisoners.

Q During the time that you were in this guardhouse and you saw Mr. Lipinski, describe for the court the treatment that you observed Mr. Lipinski give to the prisoners.

A As far as I saw, it was a good treatment.

Q Can you give the court any idea of how often you saw Lipinski at Flossenburg with a detail of men going out of the camp?

A How often? I can't do that at all.

Q Well, estimate it in your best judgment.

A That could have been ten or fifteen times. I can't tell you exactly.

Q Do you know when Mr. Lipinski arrived at Flossenburg?

A That must have been the middle of February also.

Q Why do you say "must have been the middle of February also"?

A Because a transport arrived there from Gross-Rosen.

Q Did you accompany that transport?

A Yes.

Q Do you know whether Mr. Lipinski was in that transport that came from Gross-Rosen with you?

A I believe so.

Q Will you describe for the court the clothing, including the head gear which you observed Mr. Lipinski wearing when you saw him in Flossenburg?

A I can't remember that all very well any more. It is possible that he had a civilian jacket or coat and striped trousers. I can't tell you for sure. I can't remember that any more exactly.

Q What about his head gear?

A Most people went without any head gear at all but I don't know that any more exactly.

Q During the time that you worked here in the guardhouse at the entrance to the camp did you ever hear any discussion among the block leaders with regard to Lipinski's treatment of prisoners?

A No, I didn't hear anything.

Q Do you think that you could recognize Mr. Lipinski if you saw him again?

A Yes.

Q Will you look over the men who are seated behind me in the prisoners' dock and see if you can recognize the man you know as Lipinski?

A The third row, the fifth one.

MR. McKAY: Let the record show that the witness has identified the accused number 23 as Lipinski. You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Do you remember Lipinski on the transport from Gross-Rosen?

A Yes.

Q You were a guard on that transport?

A Yes, transport leader.

Q You and Lipinski had some whiskey on that transport, did you not?

A Whiskey, -- you mean liquor?

Q Yes.

A No, -- I don't understand the question.

Q Did you and Lipinski have some "schnapps" on the transport coming from Gross-Rosen to Flossenburg?

A "Schnapps"? I don't understand that.

Q Do you know what "schnapps" is?

A Yes, distilled liquor.

Q Did you have any of that on the transport from Gross-Rosen to Flossenburg?

A Yes, -- what am I supposed to have had?

Q Did you understand the question that was propounded to you, Neumann?

A Yes, you mean whether Lipinski was on this transport.

Q Did you have any "schnapps" with you when you came from Gross-Rosen to Flossenburg on this transport?

A "Schnapps"? No.

Q The only opportunity you had of observing Lipinski was the brief moment that you saw him pass by the guardhouse going into the protective custody compound, is that right?

A Yes, and once in a while when he was working on the outside with his prisoners, whenever I happened to go by.

Q Where was he working on the outside with his prisoners?

A I don't know whether it was in the guarding block, -- wherever he had to do his work with his work outfit.

Q Where did you see him doing this other work?

A Outside in front of the camp where people were working.

Q What was the detail doing there?

A I can't remember any more exactly. Perhaps it was a wood detail or a food carrier detail, I don't remember.

Q How many occasions did you see him outside the camp?

A How many times?

Q What is correct, how many times?

A I can't tell you any more exactly.

Q Many or few?

A Few.

Q You know nothing about Lipinski's treatment of prisoners in block 20, do you?

A How many?

Q Do you know anything of Lipinski's treatment of prisoners in block 20?

A I don't know that.

Q Do you know anything of Lipinski's treatment of prisoners in block 23?

A I don't know anything about block 23 either.

Q Do you remember that Lipinski wore a little hat with a blue brim?

A I can't remember that.

Q As a matter of fact, you did not see Lipinski very many times, did you?

A Not often.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Did you ever see any other prisoners in the camp wearing a blue hat with a little brim

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A I can't remember.

MR. McKAY: That is all.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court? Apparently not. The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

MR. McKAY: The next witness is being called on behalf of the accused number 23. Call Hermann Pagel.

HERMAN PAGEL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name for the court?

A Hermann Pagel.

Q Will you spell the last name?

A P-a-g-e-l.

Q Mr. Pagel, where are you at present residing?

A In Schliersee.

Q Where are you actually residing at the present time?

A In Camp 3 here in Dachau.

Q Are you being held in custody by the American authorities?

A Yes.

PRESIDENT: You are advised that should you be asked any question that might tend to incriminate you, you have a right to ask the court to refrain from answering that question. Do you fully understand?

THE WITNESS: Yes.

10-SMR-9/3-14

QUESTIONS BY MR. McKAY:

Q Mr. Pagel, I must caution you to speak loud enough so that everyone in the room can hear you. Do you understand?

A Yes.

Q Were you ever in the concentration camp of Flossenburg?

A Yes.

Q In what capacity were you in the concentration camp of Flossenburg?

A As a guard.

Q When did you go to Flossenburg?

A In June 1944.

Q How long did you remain at Flossenburg?

A Until 26 March 1945.

Q What happened to you on the 26th of March, 1945?

A There I was ordered off to the field, to the front, in the central section of the front.

Q Did you ever return to Flossenburg?

A Yes, on the 18th or 19th of April.

Q What year?

A 1945.

Q How long did you remain then?

A Two days.

Q During the time that you were a guard in Flossenburg, to what branch of the service were you assigned for duty?

A The air force. I was first with the air force and then the first day of the ninth month I was ordered back to the SS.

Q When was that? What year?

A 1944, the first of the ninth month, '44.

Q Mr. Pagel, did you remain on guard duty for the entire time that you were in Flossenburg?

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A Up until around the first of March I had nothing but guard duties. I had a forest work detail and starting with March I was ordered for service with department 3 and there I did guard duty in the blockhouse.

Q During the time that you were doing guard duty in Flossenburg, did you ever come in contact with a prisoner by the name of Lipinskit

A I didn't come in contact with him.

Q Did you ever see him?

A Yes.

Q What duties did you observe Lipinski perform when you knew him?

A I don't know any more. I only saw him go back and forth in the courtyard. I only saw that he had some supervisory duty.

Q When you say you went back and forth in the courtyard, what do you mean?

A I mean that I saw that he had some duties in the courtyard. I did see him up front or in another part of it. He had supervisory duties to do there.

Q How long did you observe Lipinski have these duties as supervisory work in the courtyard?

A I merely saw him only once or two or three times.

Q Did you ever observe Lipinski working with a detail of prisoners?

A No, no.

Q In your capacity working in the camp did you ever come to know of Lipinski's reputation as far as the treatment of prisoners?

A No, I never heard his name until I got here.

Q When you observed Lipinski in the camp, what kind of clothing did you observe him wearing?

A As far as I know, he was wearing the same clothes he was wearing last Saturday. That is the reason I recognized him.

Q Do you remember what kind of head gear he were in the camp?

A No.

Q Do you think you could recognize Mr. Lipinski if you saw him again?

A Yes.

Q Will you look at the prisoners who are seated behind me in the dock and see if you recognize the man you knew of as Lipinski?

A Here (indicating).

Q Point him out.

A Number 23. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused wearing number 23 as Lipinski. You may cross examine.

PROSECUTION: No questions.

PRESIDENT: Questions by members of the court? Apparently not. Any further redirect?

MR. McKAY: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: If it please the court, I have another witness available to call. His name is Julius Straub. He is being called on behalf of the accused number 37. Call Julius Straub. There will be a short delay.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

A As far as I know, he was wearing the same clothes he was wearing last Saturday. That is the reason I recognised him.

Q Do you remember what kind of head gear he were in the camp?

A No.

Q Do you think you could recognize Mr. Lipinski if you saw him again?

A Yes.

Q Will you look at the prisoners who are seated behind me in the dock and see if you recognize the man you knew of as Lipinski?

A Here (indicating).

Q Point him out.

A Number 23. (Indicating)

MR. McKAY: Let the record show that the witness has identified the accused wearing number 23 as Lipinski. You may cross examine.

PROSECUTION: No questions.

PRESIDENT: Questions by members of the court? Apparently not. Any further redirect?

MR. McKAY: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

MR. McKAY: If it please the court, I have another witness available to call. His name is Julius Straub. He is being called on behalf of the accused number 37. Call Julius Straub. There will be a short delay.

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: Court will come to order.

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JULIUS STRAUB, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q Will you state your name for the court?

A Julius Straub.

Q Will you speell your last name?

A S-t-r-a-u-b.

Q Where are you residing at the present time, Mr. Straub?

A Neuisenburg.

Q Where are you personelly living at the present time?

A In Camp 3.

Q Is that here in Dachau?

A Yes.

Q Are you being held b the American authorities?

A In the camp.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised by the cou t that if you should be asked any question that might tend to incriminate you, you may ask the court to refrain from answering that question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed.

QUESTIONS BY MR. McKAY:

Q Mr. Straub, were you ever in Flossenburg concentration camp?

A Yes.

Q In what capacity were you in Flossenburg concentration camp?

A Because I refused to work.

Q Mr. Straub, I must caution you that you must speak loud

so that everyone in the courtroom can hear you.

A Yes.

Q When did you come to Flossenburg?

A 16th of December, 1943.

Q You stated that you were sent there because you didn't work. Will you explain that to the court?

A On the 20th of December, 1939, I was supposed to do some work in Bad Nauheim.

Q What was the nature of that work?

A I was supposed to go to work at the west wall, armament work there.

Q What was the occasion for your refusing to go to work?

A Because I wouldn't accept the work. I refused it.

Q Were you arrested at that time?

A 1940, the 12th of February I was arrested.

Q Were you given a trial?

A Yes, I was placed before an investigating judge.

Q What happened to you there?

A I received three months in prison.

Q When were you actually transferred to Flossenburg?

A 16th of December, 1940.

Q Was that following your prison term?

A. On the 12th of December I went in a transport from Giessen to Frankfurt.

PRESIDENT: Off the record.

(Discussion off the record.)

PRESIDENT: On the record.

QUESTIONS BY MR. McKAY:

Q Mr. Straub, when did you actually enter Flossenburg concentration camp as a prisoner?

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A 16th of December 1940.

Q Was that following your arrest that you have just described?

A After I had sat out my nine months sentence.

Q Had you ever had any convictions prior to this one for refusing to go to work?

A I would like to refuse that testimony.

PRESIDENT: It is not a question of refusing. You have the right to ask the court's permission to refrain from answering a question that might tend to incriminate you. Repeat the question, Miss Reporter.

(Thereupon the question was read by the reporter.)

PRESIDENT: The court does not feel that that answer would incriminate you as far as any future trials are concerned. If you should be asked a question which might tend to incriminate you as far as any future trialsare concerned, the court will be glad to give that matter full consideration. The question will be answered.

THE WITNESS: Yes.

QUESTIONS BY MR. McKAY:

Q Mr. Straub, while you were a prisoner in Flossenburg, did you ever live in block 6?

A Yes.

Q When did you move into block 6?

A The end of March or April, 1944.

Q How long did you continue to live in block 6?

A Until the end of March, 1945.

Q In which wing of block 6 did you live?

A B wing.

Q Did you ever know a man in block 6 by the name of Retslaff?

Yes.

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Q In which wing did Petzleff live?

A B wing.

Q How long did Petzleff live in B wing of Block 6?

A Perdon?

(Thereupon the question was repeated by the interpreter.)

A As far as I know him it could have been until May '44.

Q Did you have an opportunity to observe how Petzleff treated his fellow prisoners?

A Yes.

Q Will you just describe for the court as best you can what you saw with regard to Petzleff's treatment of his fellow prisoners?

A When I first learned to know him the beginning of May '45, -- I didn't know him well enough to talk to him, and it wasn't until November or December '44 that I entered into a conversation with him.

Q What year did you first meet Petzleff?

A 1944.

Q Will you read the last answer, please?

(Thereupon the answer was read by the reporter as follows:

"When I first learned to know him the beginning of May '45, -- I didn't know him well enough to talk to him, and it wasn't until November or December '44 that I entered into a conversation with him."

Q During that time from May until November of '44, did you actually observe how he treated fellow prisoners?

A Yes.

Q Just describe to the court what you saw with regard to Petzleff's treatment of his fellow prisoners.

A In December 1944 I entered a conversation with him and I learned to know him there when he had duty in the dormitory.

Q What duty did Petzleff have in the dormitory?

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A He was in charge of the work in the dormitory.

Q Just describe what you saw with reference to Retzlaff's treatment of his fellow prisoners.

A Retzlaff was commissioned by the block oldest to see to it that the dormitories were kept clean and to help him he had five Poles and two Russians, and he always said to his boys, "Take care that you make it nice and clean so that I won't get in hot water with the block oldest" and the people who made the dormitory clean got food for their services. The block oldest arranged that anyone who did clean-up work in the dormitory would get extra food for his work and later on Retzlaff didn't have this work in the dormitory any more. He explained to the block oldest that he wanted to have peace, he wanted to have his own quiet and from this day on, -- that was in January 1945, -- he didn't have this work any more and in 1945 the block oldest asked him to do room service again and he explained to the block oldest that he wanted to keep to himself, he wanted to have his own peace. I never saw him with anyone. I only know of one instance. There was a Pole, a small Pole, he was probably 30 years old. The Pole had the same cupboard as Retzlaff in '42. I only know that the Pole worked in Department 3 of the 4th Division in the Messerschmitt factory. He took some beer and food of Retzlaff out of this cupboard. There was an exchange of words and Retzlaff called him a "rascal" and then I remember another case two days before Christmas, 1944, when Retzlaff received a package from his brother and on Christmas Eve he distributed the entire package to the prisoners.

Q During the time that you lived with Retzlaff in block 6, do you recall that he was ever known by any particular nickname?

A No.

Q You described an incident with a Pole. Did you ever learn

that Pole's name?

A No, if I would see him again I would recognize him.

Q Did you ever observe how Retzlaff used to use his spare time?

A Yes.

Q Describe what you saw there.

A I know only that he had a Russian there whom he treated as his own brother. He always gave him his food and whenever he got packages from his brother he would give some to the Russian.

Q Do you think you could recognize Retzlaff if you would see him again?

A Yes.

Q Will you look over the men seated behind me in the dock and see if you can recognize the man you knew of as Retzlaff?

A Here (indicating).

MR. McKAY: Let the record show that the witness has identified the accused wearing number 37 as Retzlaff.

PROSECUTION: May it please the court, let the record show that after he had pointed to somebody else over here on the righthand side.

PRESIDENT: Have the witness identify Retzlaff again.

THE WITNESS: Here. (Indicating)

MR. McKAY: The second time, at the direction of the court, let the record show that the witness identified the accused number 37 as Retzlaff.

MR. McKAY: You may cross examine.

PRESIDENT: The court would like to see the Prosecutor and Mr. McKay just a moment. Off the record.

(Discussion off the record.)

PRESIDENT: Court will adjourn until nine o'clock tomorrow morning.

(Thereupon at 1710 hours court adjourned until 0900 hours September 24, 1946.)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 3909 - 3985 Incl.

FLOSSENBURG

Case No.

Prosecutor

*~~Summary~~

*~~Intermediate Military Court~~

*General

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 24 September 194 6
0900 - 1700 hours

Reporter

~~Members of Court~~

WITNESSES:
JULIUS STRAUB
EDWARD ROEHNER
LORENZ HOWOLD
BERTHOLD MARWELD
ALOIS JAKUBITH

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH FLESSNER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

24 Sept. 1946 0900 hours to 1700 hours Pages 3909-3985 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
JULIUS STRAUB	3909	3910	3913		
EDWARD ROSENER	3921	3926	3931 3934	3934	3938 3936
LORENZ HOWOLD	3937 3942	3943	3949	3950	3947
BERTHOLD MARWELD	3952	3954			3955
ALOIS JAKUBITH	3957				

Camp Dachau, Germany
24 September 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Berkowitz who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Mr. Hall who are absent on business of the accused; and all the accused are present with the exception of Risbusch, Ruddensieg, Jakubith, Olschewski, and Oswalt who are sick in the hospital and Fahrnbauer who is conferring with his counsel. The interests of the named accused who are absent are being taken care of by their counsel.

The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Mr. McKay.

DIRECT EXAMINATION CONTINUED

QUESTIONS BY MR. McKAY:

Q Mr. Straub, what was the length of your sentence when you were sent to prison the first time?

A A quarter of a year.

Q How many months?

A Three months.

Q Then how soon after you had completed that sentence did you go to Flossenburg?

A On December 16 I was not released. I was taken from Giessen on transport to Nurnburg.

Q How long did you remain in Nurnburg?

A Four days.

Q Well, what did you mean yesterday when you said after you had served nine months you went to Flossenburg?

A January 12, 1940 I was arrested by the gestapo and I was in protective custody until the sixth of December, 1940. On December 6 I was taken on a transport from Giessen to Frankfort on the Main. On December 12 I was taken on the transport to Nurnburg. I was in Nurnburg from the twelfth until the sixteenth. From Nurnburg I went to Schwandorf that same day and from Schwandorf,,from the station there, we were taken to Flossenburg by SS men. We arrived at the camp at 2 o'clock in the afternoon.

Q What was the date you arrived in Flossenburg?

A The same day, the sixteenth of December.

Q Of what year?

A 1940.

Q What date did you move into Block 6?

A In April, 1944.

MR. MCKAY: You may cross-examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q You stated that Retzlaff had a Russian that he treated as a brother. Is that correct?

A Yes.

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Q Approximately how old was that Russian?

A I estimate about 22.

Q While you were in Flossenburg, what did you hear with respect to Retslaff having brought this alcohol into the camp which brought about the death of a number of prisoners?

A I don't know anything about that.

Q What did you hear about it?

A If someone was beaten to death everyone in camp talked about it - this or such a man did it. I only know about one beating; the man was beaten to death by the obercapo, Wielbach.

Q Tell the court what you have heard with respect to Retslaff's connection with bringing this liquor into camp?

A Whether Retslaff personally brought this alcohol into camp I don't know. I only know that some block eldest or capo sold alcohol for bread, macaroni, or sugar or things like that.

Q Just answer my question and tell the court what you know with respect to what you heard concerning Retslaff's bringing this alcohol into camp?

A I don't know whether Retslaff brought alcohol into camp. I only heard later on that so and so many people died because of poisoning from wood alcohol.

Q Did you hear that Retslaff brought this alcohol into camp?

A No.

Q You never heard that?

A No.

Q At about five minutes of 9 this morning I asked you to state whether or not, in my office - in the office of Colonel Denson. And I ask you to state whether or not you made the reply that you heard that Retslaff had brought that alcohol into camp?

A No.

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Q You didn't make that statement in the office of Colonel Denson?

A No.

Q Now, I will ask you to state further whether there was an interpreter there who propounded that question to you and I will ask you to state whether or not your reply was that it was common rumor in the camp that Retzlaff had brought this alcohol into the camp?

A I did not hear anything about that. Four Russians and one German were present.

Q Now you answer my question. Is it a fact that on this morning you stated in reply to a question as to what you had heard, whether Retzlaff had brought this alcohol into camp, which brought about the death of some of the prisoners, that it was a common rumor in the camp?

A Yes, three prisoners. Those were German prisoners who died from it.

Q Didn't you understand the question?

A Yes.

Q Well, then, answer it please.

(Whereupon the question was read by the reporter.)

A I only heard about that later.

Q Answer my question as to whether or not you made that statement to that question in my office this morning.

A Yes.

Q You did make that statement?

A Yes.

Q Well, is it a fact that you heard that Retzlaff had brought this alcohol into Flossenburg that brought about the death of some of these prisoners?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Just when were you interrogated by Colonel Denson?

A The last time by the defense counsel on Thursday.

Q No. When did you talk to Colonel Denson - that you just spoke about.

A Yourself? Last Thursday.

Q You talked to me last Thursday. I want to know when you talked to that man (indicating Colonel Denson).

A This morning.

MR. MCKAY: If it please the court, during this entire trial the defense has never without permission of the prosecution interrogated any witness during the process of his examination. We have always maintained the policy to hold any interrogation until they have completed, and I submit that the conduct here which has been revealed by this witness is entirely out of order and improper, and I move that any statement he's made be striken from the record.

PROSECUTION: May it please the court, in line with the policy that the defense counsel has outlined, I first obtained the permission of the defense counsel to interrogate this witness. I asked Mr. Hall and I would like to have Mr. Hall brought in before this court and have him make his statement. I asked Mr. Hall if it would be all right to interrogate this man for about three minutes and I never spoke a word to him until Mr. Hall said it was perfectly

all right. I would like to have Mr. Hall brought into court, please.

PRESIDENT: The court would like to ask Colonel Densen just what Mr. Hall has to do with this particular phase of the case. This witness has been called by Mr. McKay.

PROSECUTION: Well it just so happens, may it please the court, that Mr. Hall was the only man in the defense office there at the time and it was just about two minutes before this court started to take up session. And as I said, Mr. Hall is a representative of the defense counsel and if he is the only man available, I see absolutely nothing wrong in asking him.

PRESIDENT: The court would like to inquire from Mr. Hall just what he has to say with respect to the matter.

MR. HALL: If the court please, I don't believe I am familiar with all that has transpired here in the last two or three minutes, but I think I have an idea as to what it is about. A moment before court started this morning, Colonel Densen inquired of me substantially as follows: "Can I speak with this witness?" I did not see the witness and haven't seen him until now on the stand - I presume this is the witness in mind. At the time I was engaged in another matter and I said, "As far as I am concerned, yes." The matter was dropped right there and that's all I knew about it.

PRESIDENT: Now, just a minute, Mr. Hall. Did you have any authority to grant a permission of that nature, or were you only expressing your own personal viewpoint and interest? The court understands that this particular witness was called by Mr. McKay.

MR. HALL: Well, sir, I didn't even know who the witness was. I was quite certain it was not a witness involved as far as I am concerned. I believe I am correct in saying he said "as far as I am concerned". I don't know whether I was assuming authority and I certainly don't think I have any special authority to go around making statements concerning other people's witnesses. I might have been in a position where I misled the prosecution by my remark. Do you recall, Colonel Denson, if I made any remark concerning Mr. McKay at the time?

PROSECUTION: I just want to ask you to tell the court whether either Mr. McKay or Colonel Wilson was in the office at that time.

MR. HALL: They weren't to the best of my knowledge, but I didn't look around the room to see.

MR. MCKAY: If it please the court, I have been in the courtroom this morning from at least fifteen minutes before court took up. I was right here. If he had wanted to talk to me, all he had to do was look in the door. I was sitting right here.

PRESIDENT: Colonel Denson, do you have anything further to say?

PROSECUTION: Well, the only thing I can say is this, may it please the court. The man was sitting down outside the door and I went into the defense office where counsel are usually supposed to be and the only man I found there was Mr. Hall and I asked him at the time if I could ask this man a question and he said so far as he was concerned

it was all right, or words to that effect, if I am not mistaken. I took him into my office where I have an interpreter and I asked him the question that I have asked him in the presence of this court and he gave me the answer there that he finally gave here before this court. That's all there was to it and so far as I am concerned, there is nothing more than a tempest in a teapot here. If the man made the statement, then that is the end of it.

PRESIDENT: Colonel Densen, it is difficult to understand how you assumed that Mr. Hall would have authority to grant you permission to speak to one of Mr. McKay's witnesses.

PROSECUTION: Well, sir, it's very difficult for me to understand how any man on the defense wouldn't have the authority to give me permission to speak to any one of the defendants or any one of their witnesses. It is extremely difficult for me to understand that. Yes, sir, it is. And I assume in the absence of any one of the senior defense counsel, any one of these men over there is competent to handle the interests of any man in that dock.

PRESIDENT: Well, the court doesn't agree with that for one moment, Colonel Densen. The senior counsel is designated to handle the defense. The various defense counsels are calling witnesses themselves and the court doesn't feel for one moment that Mr. Hall had any authority, if he did assume that authority, to grant you permission to talk to one of Mr. McKay's witnesses. Now, the court feels that this is purely a misunderstanding, but at the same time

the court directs that nothing of this nature will happen again. If there is any question of interviewing a witness on the part of the prosecution or defense, either that permission will be secured through the senior defense counsel or the senior prosecutor, as the case may be, or if he is not available, then the assistant counsel who has called that particular witness should be consulted.

MR. HALL: May it please the court, again I don't know exactly what all the background is on this, but just to make my position doubly clear, I want to emphasize that I feel certain my remark was, "As far as I am concerned, the witness may be interviewed."

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 0940 hours.)

(Whereupon the court was opened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Major Oeding and Mr. O'Connor, who are absent on business of the accused; all the accused are present with the exception of Flsbusch, Huddenaieg, Olschewski, and Oswalt who are sick in the hospital and Fahrnbauer, who is conferring with his counsel. The interests of these named accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses, in this case, they will please leave the courtroom.

The witness is not present, may it please the court.

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MR. MCKAY: Bring in Mr. Straub.

(The witness was brought in and resumed the stand.)

PROSECUTION: The witness is reminded that he is still under oath.

PRESIDENT: The motion to strike on the part of defense counsel, Mr. McKay, is sustained as far as refers to the evidence brought out during the course of the cross-examination on this date as far as this witness is concerned. At the same time, Mr. Prosecutor, the court does not feel that there was any intent involved in this particular matter. Now, the policy of the court is that once a witness has taken the stand, that particular witness will not be interrogated by either the prosecution or the defense - and the matter of defense includes the defendants - without the permission of this court until that witness has been excused by the court. The court desires to further amplify the previous statement as far as the prosecutor is concerned. The court does not feel that there was any intent on the part of the prosecutor to do anything unethical, but in order that there be no further misunderstanding about these matters, the court has laid down a definite policy to be followed by both the prosecution and defense.

Redirect examination?

MR. MCKAY: Nothing further, sir.

PRESIDENT: Recross?

PROSECUTION: I move to exclude the entire testimony of this witness on the grounds that there has been no cross-examination of this witness.

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PRESIDENT: The court will permit the prosecutor to cross-examine this witness on any matters except those covered in the original cross-examination.

PROSECUTION: May it please the court, the court has already excluded those matters about which the witness has testified and upon which he was cross-examined regardless of whether he had been asked about that matter previously or not. There wasn't but one question asked of this witness this morning before he took the stand on cross-examination. The court has seen fit to exclude his entire cross-examination and on that basis I move to exclude his direct examination.

MR. MCKAY: May it please the court, it is the right of the prosecutor to conduct proper cross-examination and if he does not desire to do that, that is a matter within his own discretion and does not disqualify his direct testimony in any way.

PROSECUTION: May it please the court, the ruling of this court is to exclude his entire cross-examination, as has been stated by this court.

PRESIDENT: That is the decision of the court, but at the same time the court has given the prosecutor a chance to cross-examine this particular witness on any matters not covered on the original cross-examination. The court has felt it necessary in this particular matter to protect the defendants against whom evidence has been submitted by this particular witness.

PROSECUTION: Before you rule on that motion, I would like to be heard further.

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PRESIDENT: Mr. Prosecutor, the court is glad to give you an opportunity to phrase your argument, but the only thing is, get your argument in before the decision is made.

PROSECUTION: That is what I want to do.

PRESIDENT: All right, proceed.

PROSECUTION: As I understand the ruling of the court, the entire cross-examination of this witness has been excluded, although it touched on more than one topic, which was the subject of the question that was asked this witness in my office this morning. The only topic of conversation with this witness this morning before he resumed the stand was his knowledge of Retzlaff's connection with the bringing into the camp of bad alcohol. There were other matters that this witness testified to on cross-examination this morning that have been excluded by this court. Now, in order to be perfectly clear as to the limits to which counsel may go on cross-examination, it is desired that the court state just what portion of this witness's testimony on cross-examination is excluded and whether or not counsel will be permitted to go into matters other than the one about which he inquired of the witness in his office this morning.

PRESIDENT: The decision of the court has been to the effect the motion to strike would include the evidence included during the course of the cross-examination. That specifically refers to the matter of the evidence relative to Retzlaff and the alcohol. It also refers to the matter and evidence brought out by this particular witness with reference to Wielbach, which was an outgrowth of the testimony referring to Retzlaff.

PROSECUTION: May I ask the court whether it also includes the age of the young Russian?

PRESIDENT: The court has stated that it refers to any matters covered during the cross-examination. As stated before, the court has felt it necessary to make this decision in order to protect the defendants involved in the testimony of this particular witness after the unauthorized examination of this particular witness while he was still under oath and before he had actually been excused by the court.

The motion of the prosecutor to strike is denied.

Mr. McKay, anything further?

MR. MCKAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: Questions by members of the court?

Apparently not. The witness will be excused.

(Thereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: The next witness is being called on behalf of the accused No. 21. This witness has appeared previously before this court for the defense and is being recalled at this particular time for this particular accused. Call Edward Roehner.

EDWARD ROEHNER, recalled as witness for the defense, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Roehner, you are the same man who testified before this court a week or so ago?

A Yes.

Q You are at this time advised that you are still under oath before this court.

A Yes.

Q The testimony that you are now giving is the same as the previous testimony that you have previously given?

A Yes.

Q Mr. Roehner, in your previous testimony I believe you stated that you were an electrician during the time you were a prisoner in Flossenburg. Is that correct?

A Yes.

Q In your capacity as an electrician in the concentration camp of Flossenburg, did you ever visit the stone quarry?

A A few times a week I went down to the stone quarry.

Q Did you ever visit Quarry No. 1?

A Yes.

Q And what was the occasion for your visits to Quarry No. 1?

A I had to do repair work there - the cranes and cables.

Q Now, can you give the court any idea of the number of times a week that you visited Quarry 1 to repair the cranes?

A Approximately two or three times.

Q Calling your attention to the year 1945, did you visit the Quarry 1 during that year?

A In the year 1945, I myself was still a stone mason in the stone mason's hall and towards fall of 1945 was transferred to the electrician's detail.

Q Now, after you had been transferred to the electrician detail in the fall of 1945, did you visit Quarry 1 as a part of your duties?

A Yes, I went down there a few times a week.

Q And how long did you continue to make your visits to Quarry 1 for the purpose of carrying out your duties as electrician?

A I checked all cranes and cables and checked whether all of it was in order and left after 30 to 45 minutes.

Q Now, over what period of time did you continue to make these visits?

A As of '43.

Q Following the fall of '43, how long did you continue to make these visits to the stone quarry?

A From '43 to '45.

Q During the time that you made these visits to the stone quarry, did you ever come into contact with a prisoner by the name of Jakubith?

A Yes.

Q Will you explain to the court what duties you observed Jakubith perform while you were visiting the stone quarry to carry out your duties as an electrician.

A Jakubith was the supervisor of all prisoners who worked in Quarry 1.

Q Was that true during the entire time that you made your visits there?

A So far as I know, Jakubith worked all the time in the stone quarry starting with the fall of 1943, when I got acquainted with him.

Q Was he the capo in the quarry all that time?

A Jakubith was an assistant capo from January, 1943, until the fall of '43.

Q Will you explain to the court just what you mean when you say assistant capo.

A He had to help the real capo at the time to supervise the work and see to it that no one would leave the stone quarry.

Q Do you know who the actual capo was at that time?

A It was a certain Rochel.

Q Do you recall when Jakubith actually became the capo of Quarry 1, himself?

A In the fall of 1943 Jakubith became capo of the stone quarry because the other man was transferred.

Q Now, during the time that you made your visits to Quarry 1, did you have occasion to observe how Jakubith treated the prisoners who worked under him?

A I went down to the quarry quite a few times and I noticed that as of the fall of 1943 shootings and mistreatments were not commonplace any more as they used to be under the other capo.

Q Well, now, will you just describe for the court what you observed with regard to Jakubith's treatment of the prisoners during the time that you visited the quarry to repair the cranes?

A Jakubith was cautioned by his civilian master quite a few times because his prisoners were standing around the stove in the crane shack. As of that time there were no complaints any more that any prisoners did not receive their breakfast bread.

Q Did you ever see anything unusual on your visits to the stone quarry with regard to Jakubith's treatment of prisoners?

A I personally did not see whether Jakubith beat any one.

Q Will you describe for the court what you saw Jakubith doing in the performance of his duties as capo, on your visits to the stone quarry?

A I have already mentioned that Jakubith's duties were to keep his detail together because people would run off and hide behind rocks and go to sleep there.

Q During the time that you were in Quarry 1 did you ever witness an accident in the quarry.

A While working on the cables in the quarry ditches had to be dug and at one time the earth gave in and I believe two prisoners were buried.

Q Did you observe whether Jakubith was present on that occasion?

A Jakubith was there and so was I, and Jakubith immediately took steps to get more people there to dig up these two.

Q During the time that you knew Jakubith in the camp, did you know what his reputation was among his fellow prisoners?

A I was able to determine that his reputation couldn't have been bad because when he was in the hospital he always received visits from people who worked under him.

Q Did you ever carry on any conversations with other prisoners with regard to Jakubith?

A I can't remember having heard any conversations.

Q Now, you stated that there were fewer complaints after Jakubith became capo. Will you explain that to the court.

A When I was still working in the stone quarry and at the time the old capo was still there, there were seven to eight cases daily that people in their desperation of the chicanery on the part of the capo ran into the wire. And I know that many people volunteered from the Messerschmidt halls to go back to the stone quarry because the work time was shorter and was at a modest pace.

Q What do you mean by modest pace?

A People were allowed to work according to their own strength.

Q Did you ever hear any rumor in the camp as to why Roehel was removed as capo?

A I don't know why Roehel was transferred.

Q Do you know how long Jakubith worked under Roehel?

A As far as I can remember and from what I know, it could have been half a year - it could have been more also. I can only remember the time that he was assistant capo to Roehel.

Q Will you look at the other wall a minute (indicating wall opposite the dock). Do you think you could recognize Jakubith if you saw him again?

A Certainly.

Q Will you look at the men who are seated in the dock behind me and see if you can recognize the man you knew as Jakubith?

A In the third bench (indicating).

Q What man?

A There in the third seat, No. 21.

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 21 as Jakubith.

You may cross-examine.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Is it not a fact that shootings still took place in the quarry after the fall of 1943?

A I can't remember that but if someone should have gone into the wire, he didn't go into the wire because of Jakubith.

PROSECUTION: Now, I ask that the answer be stricken because it is not responsive to the question and ask that the witness be directed to answer only the questions propounded to him.

PRESIDENT: Motion to strike by the prosecutor is sustained. The witness is directed to answer the questions of the prosecutor concisely and to the point.

Q Is it not a fact that shootings still took place in the quarry after the fall of 1943?

A I don't know that.

Q How long were you in Flossenburg after the fall of 1943?

A Till '45.

Q And did you have occasion to go to the quarry every day after the fall of '43?

A In the morning I went to the stone quarry and then went to other places, such as the village, to do my work and then most of the time was in the stone quarry the rest of the day.

Q And at any time during the fall of 1943 do you know of any persons being shot in the quarry?

A I can't remember.

Q Did you ever hear of any persons being shot in the quarry after the fall of 1943?

A As I said before, I can't remember that some one was shot there.

Q Well, you remember do you not that conditions in the quarry improved after the fall of 1943?

A Yes, of course, because before that I had been working in the quarry, myself.

Q You were able to remember that conditions improved. Now, I have asked you if it isn't a fact that one of the conditions that did not improve was the fact that people were still shot in the quarry in the fall of 1943?

MR. MCKAY: The question is objected to as being argumentative in form.

PRESIDENT: Objection overruled.

A I can remember that when I first entered the stone quarry, we had to hit the ground three or four times a day because someone had gone into the barbed wire and I also know that after '43 the

speed of work was slowed down and the treatment wasn't as harsh any more.

Q But you don't remember whether anyone was shot after 1943?

A I can't say that.

Q You mean you can't say that you don't remember?

A I can't remember. It's possible that something happened when I wasn't in the stone quarry, but personally I don't know anything.

Q Well, when you say personally you don't know anything, you don't know whether conditions in the quarry then were better or worse after the fall of 1943. Is that correct?

A I mentioned before that we had to lay down three to four times a day, which did not occur any more later on.

Q And is that the sole basis for your conclusions that it was better in the quarry after the fall of 1943?

A I would have felt that myself if after '43 we would have had to hit the ground because some one was being shot.

Q Well, you were in the quarry only as much as 30 minutes a day after the fall of '43. Is that not correct?

A No, that was a misunderstanding.

Q How long did you spend in the quarry after the fall of '43?

A I was on the outside for two or three hours per day sometimes.

Q When you say on the outside, do you mean by that that you were in the quarry two to three hours every day after the fall of 1943?

A No, that means that I was two hours in other factories. That was at the time the Messerschmidt plant was still working.

Q Well, tell the court please just how long a time each day you spent in the quarry after the fall of 1943?

A Well, the work started at 7 o'clock in the Messerschmidt plant and in the stone quarry also, and then I was in the stone quarry until about 9 o'clock or 9:30. Then I went to an outside detail for about an hour, came back to it at noontime and stayed there most of the afternoon except during the cases of outside disturbances.

Q You spent most of the day then in the stone quarry. Is that not correct?

A As mentioned, except for two or three hours sometimes.

Q Now, did you ever hear that Jakubith beat prisoners with a club?

A No.

Q Did you ever hear that Jakubith beat prisoners with a rubber hose?

A I can only say what I know. There was a lot of talk going on, but what the truth was about it I don't know.

PROSECUTION: I will ask the court to please direct the witness that he has a perfect right to testify as to matters that he has heard while he was there in camp Flossenburg.

PRESIDENT: The witness is cautioned that the court will receive hearsay evidence, in other words matters that you have heard, in addition to matters that you have actually observed yourself. That would include various statements made by other individuals that have come to your attention and rumors. Do you fully understand?

WITNESS: Yes.

PRESIDENT: Proceed.

Q I will again ask you the question. Have you ever heard that Jakubith beat the prisoners in the quarry with a rubber hose?

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A It is a clear thing that when Jakubith was distributing the food and some food was left over and he wanted to hand that out, a lot of people would form a bunch and go towards him and he had to go against them energetically.

PROSECUTION: Now, I ask the court to please instruct the witness to answer the questions propounded to him without all these voluntary statements that he is putting in which have not been asked for by counsel, and I move to strike the answer on the ground that it was not responsive to the question.

PRESIDENT: Motion to strike on the part of the prosecutor is sustained. The witness will answer the questions of the prosecutor directly without endeavoring to make any explanation unless an explanation is called for in the question.

Q Now I again ask you have you ever heard that Jakubith beat prisoners in the quarry with a rubber hose?

A Yes.

Q Have you ever heard that Jakubith beat prisoners in the quarry with a club?

A That was the question I just answered. I just testified about the rubber hose.

Q All right, now, you worked under Rochel did you not?

A I did not work under Rochel because I was working in the stone mason's hall and Rochel was in charge of the stone quarry.

Q Was that a separate division and under a separate capo?

A Jakubith and Rochel. Rochel was the capo of Quarry 1 and Jakubith was attached to him as assistant capo in January '43.

Q And was the place that you worked under the supervision of Rochel and Jakubith or was that under the supervision of a different capo?

A It was a different capo.

Q Well, do you know whether or not Rochel required those who worked under him to carry out his orders?

A Rochel was the first capo in the quarry and definitely required that all his people carry out whatever he ordered.

Q And Jakubith worked for Rochel, did he not?

A Jakubith worked with Rochel because he was an assistant capo there.

Q And Rochel was senior to Jakubith, was he not?

A Yes.

Q And Jakubith carried out the duties that Rochel imposed upon him, did he not?

A Yes, he had to do what Rochel told him.

Q And the prisoners were killed at the rate of three and four a day during the time that Rochel was capo, was that not true?

A Rochel?

PROSECUTION: Will the reporter please read the question.

(Whereupon the last question was read by the reporter.)

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. MIKAY:

Q Did you ever hear the reasons why Jakubith would beat prisoners in the stone quarry?

A I didn't bother about the stone quarry and if some one was beaten there, I didn't know why because I was not competent as far as the stone quarry was concerned.

Q But your knowledge of any beatings is purely hearsay, is that correct?

A Yes.

Q During the time that Jakubith was working under Rochel, did you ever hear or witness any incidents between Rochel and Jakubith?

A I only know that Rochel was first capo and Jakubith the second, the assistant capo, and I didn't know anything further about their relations.

MR. MCKAY: That's all.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q You said that you had heard that Jakubith had used a rubber gummi on some of the prisoners. Do you know why he used a gummi hose?

A As I mentioned before, whenever prisoners tried too hard to get at the food, then he had to defend himself.

Q And did you hear of any other occasions when he used a hose?

A I can't remember that.

Q Now, you testified on your cross-examination that three or four prisoners a day ran into the wire and were shot while Rochel was the capo. Did that happen any more after Jakubith became capo?

A I mentioned that that happened while Rochel was capo.

Q Well, did that also happen after Jakubith became capo?

A No.

PRESIDENT: Further questions by members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q In your testimony you stated that after Jakubith became capo there were not as many shootings. Now, how many shootings were there?

A I have mentioned before that while I was there I never heard of any shootings taking place under Jakubith there. Of course, something could have happened while I was not in the stone quarry.

Q Well, what did you mean by making the statement that after Jakubith became capo there were not as many shootings?

A I have mentioned already that I can't remember any shootings unless something happened when I was not there.

PRESIDENT: Any further questions by members of the court? Colonel Smyly.

QUESTIONS BY COLONEL SMYLY:

Q Why did Jakubith beat these people with a rubber hose?

A As I mentioned before, it happened when people received their food when there was an helter-skelter situation and they were not in order. He had to bring order into them.

Q How do you know that?

A Because one could see something like that.

Q But I understood you to say that you never saw him beat anyone with a rubber hose?

A But I saw when I was in the stone quarry at noon how the distribution of food was handled.

Q On the cross-examination of the prosecution you said that you had heard of Jakubith beating people with a rubber hose. Is that true?

A Yes, I said that, but I didn't say that he beat them during work hours because people would not work enough.

Q Well, when did you hear he beat them - at what time?

A It was around noon during food distribution.

Q Now, how many times did you actually see him beat them?

A I can remember only two times.

Q How many times did you hear of him beating people?

A That I can't say any more. It has been a long time ago.

Q Can you estimate?

A Perhaps three times.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Do you know when the capo Roehel took charge of this detail which worked in the quarry?

A I can't say that because when I arrived in '42 he was already there.

Q Will you explain to the court who was in charge of this particular quarry from the time you went there until Jakubith took over.

A The earth and stone works owned the stone quarry.

Q I mean Quarry 1.

A Those were civilian masters who had to supervise the stone quarry.

MR. MCKAY: No further questions.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Did you testify on your direct examination that you did not personally see Jakubith beat any one?

A I testified that during the distribution of food, in the period that the food was distributed, he brought order into them, but I also said that I did not see that Jakubith beat anyone otherwise.

Q I did not ask you that question. I asked you simply whether you testified on your direct examination that you did not see Jakubith beat anyone. Did you or did you not so testify?

A At first I said that I saw that Jakubith beat.

Q You said that first?

A I stated that when I was asked whether he beat, and I said that he did while the food was handed out so he could keep order.

Q That was in response to questions by the prosecutor. Is that not true?

A Yes.

Q And prior to that time, is it not a fact that in answer to questions by Mr. McKay you had stated that you personally did not see Jakubith beat anyone?

A I said that I personally never saw that Jakubith beat anyone, however I do have to say that while the food was handed out I saw him do it.

Q Now, you also testified in answer to the question by Mr. McKay that no other persons were driven into the wire during Jakubith's tour as capo in the detail. Is that not correct?

A Yes.

Q And I will ask you if it isn't a further fact that you stated that you don't remember whether or not there were any shootings that took place in the quarry after Jakubith became capo there?

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A I have mentioned before that I cannot know anything about it if something happened in my absence.

Q Well, what is the truth? Were any people later shot in the quarry after Jakubith became capo, or don't you remember? Which?

A I can't remember.

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Now, you have testified that during the time that Rochel was capo some seven or eight men were forced into the wire.

A Yes.

Q The court desires to know whether or not Jakubith had anything to do with these occasions?

A I don't know that.

PRESIDENT: Any further questions by members of the court? Colonel Jackson.

QUESTIONS BY COLONEL JACKSON:

Q You testified previously that three or four men a day were killed under Rochel. How were they killed?

A Partly by mistreatment and partly because they had to work so hard.

Q Were any of these killed by being forced into the wire?

A As I mentioned before, there were days when six or seven went into the wire because of desperation.

Q Were any of them beaten to death?

A I can't state whether any of them were beaten to death but I do admit that they were beaten under Rochel.

Q And did all that stop when Jakubith became capo?

A Yes.

Q There were no more shootings, no more men run into the wire after Jakubith became capo. Is that correct?

A I can't remember that.

PRESIDENT: Any further questions by the court? Apparently not. Redirect?

MR. MCKAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

PRESIDENT: The court understands that the defense has finished with this particular witness.

MR. MCKAY: Yes, sir.

PRESIDENT: The witness will be excused.

MR. MCKAY: He may be called back at a later time, but at present we are through.

PRESIDENT: The witness is cautioned that he may be recalled by the defense at a later period. The court understands that you wish this particular witness to remain in Dachau?

MR. MCKAY: Yes, sir.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: The next witness is being called on behalf of the accused No. 23. Call Mr. Howold.

MARIUS LORENZ HEINRICH HOWOLD, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name for the court?

A Marius Lorenz Heinrich Howold.

Q How do you spell your last name?

A H-o-w-o-l-d.

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Q Where are you residing at present?

A In Neu-Muenster, Holstein.

Q Well, where are you at present actually living?

A At the present time I am in Cage 3.

Q Is that here in Dahhau?

A Yes.

Q Are you being held by the American authorities?

A Yes.

PRESIDENT: You are advised that if you should be asked any questions which might tend to incriminate you, you have the permission of the court to ask the court to refrain from answering questions of that nature. Do you fully understand?

WITNESS: Yes, I understand.

PRESIDENT: Proceed.

Q Mr. Howold, were you ever in Flossenburg Concentration Camp?

A I was there for three days. I was supposed to pick something up.

Q In what capacity were you there at that time?

A- I didn't have any position there.

Q Well, were you there as a civilian, a prisoner, or an SS man?

A I was sent there from the concentration camp of Gross-Rosen to pick up something, as an SS sergeant.

Q When you were in Flossenburg did you ever run into a man by the name of Lipinski?

A I knew a former prisoner by the name of Lipinski from Gross-Rosen and when I wanted to pick up my car at the garage, I met him there.

Q How long had you known Lipinski at Gross-Rosen?

A I can't give the time. I don't know when he arrived but he had been there for quite some time for I had been there since '41.

Q During the time that you knew Mr. Lipinski, did you ever have any knowledge of his reputation with regard to treatment of his fellow prisoners?

PROSECUTION: I object to the question on the ground that it is immaterial and irrelevant to the issues presented by the trial of the Flossenburg Concentration Camp.

PRESIDENT: At this time the court desires information, Mr. McKay, as to whether or not Gross-Rosen was an out-camp of Flossenburg.

MR. MCKAY: May it please the court, Gross-Rosen was not an out-camp of Flossenburg. This question is asked because it is necessary to determine the accused Lipinski's reputation prior to the time he arrived at Flossenburg. The record will disclose that Mr. Lipinski was in Flossenburg only a very short time and that it is deemed necessary that the court know his reputation in order to determine, if possible, what he may have done later on in Flossenburg. This witness is submitted for the purpose of showing that reputation and that reputation alone.

PRESIDENT: The objection of the prosecutor is sustained.

MR. MCKAY: There are no further questions.

PRESIDENT: The court will allow you a short break if you desire it, Mr. McKay, under the circumstances.

MR. MCKAY: I would like to have an opportunity to speak to the accused.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order. The court at this time, Mr. McKay, desires to amplify the previous decision of the court. If the defense is going to endeavor to have this witness bring out certain incidents that occurred at Gross-Rosen, in that particular case the previous decision of the court naturally stands. But, if you desire to bring out the reputation of the defendant previous to his incarceration in Flossenburg, the court will consider that matter.

MR. MCKAY: May it please the court, if the court will ask for my last question - I did not ask for any particular details with regard to Mr. Lipinski's conduct in Gross-Rosen. I merely asked this witness to give this court what he knew of Mr. Lipinski's reputation there prior to the time he came to Flossenburg so that the court will have some idea of this man's background and can judge this man's alleged conduct in Flossenburg. But I have no intention of going into any details of his conduct in Gross-Rosen.

PRESIDENT: All right, proceed, Mr. McKay.

MR. MCKAY: Do I understand then that the previous ruling of the court has now been changed?

PRESIDENT: The previous ruling of the court was based upon the matter of incidents, clear-cut evidence; but if you desire at the present time to bring in the reputation and the character of the accused, you may follow that course. The court is referring to the previous character of the accused. Proceed.

MR. MCKAY: If it please the court, it is now five after twelve.

PRESIDENT: The court will recess until 1:30 this afternoon.

(Whereupon the court recessed at 1205 hours.)

AFTERNOON SESSION.

(Thereupon at 1340 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: If it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Maj. Goding, Mr. Hall and Mr. O'Connor who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Fisbusch and Heve who are sick in the hospital. The interests of these accused are being taken care of by their counsel. The witness is reminded that he is still under oath.

LOTHAR HOWOLD, called as a witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Mr. McKay, continuation of direct examination.

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. MCKAY:

Mr. Howold, were you acquainted with Mr. Lipinski's character and reputation prior to the time that you met him in Flossenburg?

I can only characterize him as he was in Gross Rosen.

Mr. Howold, I want you to describe the character and reputation that you knew of Mr. Lipinski, without going into any details of his conduct at Gross Rosen.

PROSECUTION: I object to that question on the ground that it is improper. The counsel may ask the witness whether or not he is

acquainted with the general reputation in Gross Rosen. If he says that he is he may ask whether or not it is good or bad, but that is as far as he is permitted to go.

PRESIDENT: The objection of the prosecution is overruled.

MR. M'KAY: Will you repeat the question, Mr. Reporter?

(Whereupon the question was read by the reporter)

THE WITNESS: As far as I know Mr. Lipinski I can not say anything bad against him as far as I knew him in Gross Rosen. As was known to me, Lipinski was capo of the camp construction outfit.

PRESIDENT: Mr. McKay, just have this witness confine himself right to the matter of character or reputation as far as Gross Rosen is concerned.

QUESTIONS BY MR. M'KAY:

Q I want you to confine your statements now just to a description of Mr. Lipinski's character and reputation. I don't want any details of his conduct or what he did in Gross Rosen.

A Then I can say that I never saw Lipinski mistreat any prisoner.

Q You stated that you could not say anything bad about Mr. Lipinski. Can you say anything good about him?

PROSECUTION: I object to that on the ground it is no proof of reputation and character.

PRESIDENT: Objection overruled.

THE WITNESS: Yes, Lipinski sent some undernourished and sick people to me a number of times into my department. These people then worked with me in the clerk's office, there they had their work.

MR. M'KAY: You may cross-examine.

PRESIDENT: Cross-examine, Mr. Prosecutor.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Do you know what is meant by reputation, Mr. Howold?

A Yes, the general reputation, how people judge a man.

Q All right. How was Lipinski judged in Gross Rosen among the SS?

A I never spoke with SS comrades about that.

Q Did you speak to prisoners about Lipinski?

A No, I never heard anything bad among the prisoners in regard to Lipinski and I never talked with the prisoners in regard to Lipinski.

Q So, as a matter of fact, you don't know what his reputation was there in Gross Rosen; is that not correct?

A I only know I saw Lipinski when the column moved off to work a number of times and when I got undernourished and sick people from him and those people never complained about him.

Q And what you are telling this court is based upon your personal observation of Lipinski and nothing else; is that not correct?

A Yes. There was never a prisoner who came to my office from Lipinski who complained about him but my work consisted of work in the office and I was never in the construction outfit.

Q Do you know how many men Lipinski had on his detail?

A No.

Q Do you know what work he did?

A He had a barracks building outfit.

Q Approximately how many people were in a barracks building outfit?

A I don't know that.

Q How many times a day did you see Lipinski while you were there?

A I can't give you any definite answer to that. I would see him once and then I wouldn't see him for another day. I saw him near the construction outfit, not in the office where my work was.

Q What work did you do at Gross Rosen?

A In the last three-quarters of the year I had to take care

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of the prisoners' pay. I would go and get the money from the post office and arrange the monetary matters.

And from that position you know how many people died, do you not, in Gross Rosen?

MR. MAY: That is objected to as going beyond the scope of direct examination, it exceeds the scope of cross-examination and it is immaterial and irrelevant to the issues.

PROSECUTION: May it please the court, I am laying the foundation for the questions I intend to ask him concerning his statements in respect to Lipinski.

PRESIDENT: Objection overruled.

THE WITNESS: What was the question?

PROSECUTION: Read it to him, Mr. Reporter.

(Whereupon the question was read by the reporter).

THE WITNESS: No, I don't know that.

CROSS EXAMINATION BY THE PROSECUTION:

Q Didn't you pay the people there in Gross Rosen?

A Paying the people was a matter of the work commitments office.

Q What office did you say you worked in?

A I merely had to do with money which the prisoners received from relatives, their own money, I paid it out to them so that they could buy things in the canteen.

Q And you received notice of those prisoners who had died in the camp, did you not?

A That was not my business. Six of us worked in this office. I didn't have anything to do with that.

Q Somebody in your office had to do with the matter, did they not?

A Yes, of course. That was a matter of the Political Department, they would notify us, but another one took care of that.

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PROSECUTION: May it please the court, I am laying the foundation for the questions I intend to ask him concerning his statements in respect to Lipinski.

PRESIDENT: Objection overruled.

THE WITNESS: What was the question?

PROSECUTION: Read it to him, Mr. Reporter.

(Whereupon the question was read by the reporter).

THE WITNESS: No, I don't know that.

QUESTIONS BY THE PROSECUTION:

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A Paying the people was a matter of the work commitment office.

Q What office did you say you worked in?

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A Yes, of course. That was a matter of the Political Department, they would notify us, but another one took care of that.

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Q So you have no judgment as to the number of people who died in Gross Rosen; is that correct?

A No.

Q Don't you know, as a matter of fact, that Lipinski had the reputation in Gross Rosen of being a Jew killer?

A He didn't have any Jews in Gross Rosen.

Q What did you do with them, kill them out?

A It is not known to me that they had a Jew in Gross Rosen.

MR. MCKAY: That last question is objected to as argumentative in form.

QUESTIONS BY THE PROSECUTION:

Where were they sent to?

PRESIDENT: Just a minute. Do you have any answer to that argument, Mr. Prosecutor?

PROSECUTION: It doesn't need any.

PRESIDENT: Repeat the last question, please.

PROSECUTION: I withdraw the question.

QUESTIONS BY THE PROSECUTION:

You had Poles in Gross Rosen, didn't you?

A Yes, Poles, Czechs and Croatians.

Q Is it not a fact that Lipinski had a reputation in Gross Rosen for being a most sadistic killer in camp?

A I don't know anything about that. I never heard anything like that.

Q Isn't it a fact that you heard that he had killed literally hundreds of prisoners there in Gross Rosen?

A No, I never heard anything like that. I never even heard that hundreds of prisoners were killed.

PRESIDENT: Have the witness speak directly to the court, and louder.

QUESTIONS BY THE PROSECUTION:

(Howold-cross)

You are telling the court you didn't know that hundreds of prisoners lost their lives in Gross Rosen, is that correct?

A I never heard that hundreds of prisoners in Gross Rosen were killed.

Q As a matter of fact you don't know of anyone dying in Gross Rosen, do you?

A No, I can't know that.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DR. BIRKAY: Nothing further.

EXAMINATION BY THE COURT.

QUESTIONS BY THE PRESIDENT:

Q How long did you know Lipinski in Gross Rosen?

A I assume one and a half to two years.

Q How well did you know him?

A I knew him by sight that I knew that he had a barracks building outfit.

Q Did you ever have any personal contacts with him?

A No, not that I know of. I merely asked him once in a while for wood for the office there because the prisoners who received packages would get potatoes and wanted to cook them and they weren't allowed to cook them in the camp and I asked Lipinski for wood, I asked him to bring it to the office so that the people could cook their food.

Q So, with the exception of those several instances that you have mentioned, you never had any conversation with Lipinski; is that correct?

A No, we didn't carry on any conversation. The only time I saw and talked to him was when I went to the barracks building outfit and I asked him for wood for the office so that the prisoners could cook there.

Q So the court understands that you never talked to one of the SS men about Lipinski; is that correct?

A I never talked about Lipinski with SS men.

Q You never talked to any of the prisoners about Lipinski?

A No. And the risoners never complained to me about Lipinski, therefore there was no reason for us to talk about it.

PRESIDENT: Any further questions by any member of the court?

QUESTIONS BY LT. COL. SMYLY:

Q You say there were no Jews at all at Gross Rosen?

A Yes, Gross Rosen itself didn't have any Jews. Gross Rosen had outcamps where there were Jews coming from Auschwitz but none in Gross Rosen itself.

Q Do you know that to be a fact?

A I know there were Jews in the outcamps. They came from Auschwitz.

Q As I understand it you don't know of any deaths at Gross Rosen?

A What do you mean: cases of death?

Q Any kind of death.

A Yes, somebody surely died but I can't tell you anything about that because the internal affairs of the camp are unknown to me.

Q You don't know for sure whether anyone actually died or not, is that true?

A It certainly is possible that in a camp with 3,000 people someone would die but I can't tell you anything about that because it was none of my business and I had nothing to do with the internal business of the camp.

Q What color triangle did Lipinski wear?

A I don't know that any more.

Q How many times did you see Lipinski?

A I often saw him. I often saw him when he would go off to work, I saw him go through the camp to the barracks building outfit

and when he came to the office to me to come and get his money.

Q No further questions.

QUESTIONS BY LT. COL. TWINING:

Q Did they have a crematory at Gross Rosen?

A Yes.

Q No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect.

MR. MCKAY: If it please the court, I overlooked the matter of identification.

PRESIDENT: Proceed.

REDIRECT EXAMINATION.

QUESTIONS BY MR. MCKAY:

Q Do you think you could recognize Mr. Lipinski if you saw him again?

A Yes.

Q Would you look over the men sitting behind me and see if you can find the man you knew of as Lipinski.

A What should I say?

Q I asked you to look over the men who are seated behind me in the dock and see if you see the man you knew of as Lipinski.

A Yes, he is the fifth man in the third row.

Q Let the record show that the witness has identified the accused wearing #23 as Lipinski.

Can you explain to the court what would have happened to Mr. Lipinski in Gross Rosen had he been known to be a man who beat prisoners?

A If he had been known as a man who beat prisoners Maj. Hasserbock of the SS would have immediately relieved him of his duties. Those in charge strictly forbade any beatings whether it was SS men or

anybody else and any SS men who did it were relieved of their duties.

That is all.

PRESIDENT: Recross.

RECROSS EXAMINATION.

QUESTIONS BY THE PROSECUTION:

Q How many SS men were relieved of their duties because of beating prisoners?

A I don't know that. I know of one case, I don't know any more.

Q What was his name, please?

A I will have to think about it.

Q All right. Think.

A I know that he got two weeks of solitary confinement for it.

Q What was his name?

A I know that his home was in Jauer.

Q Let us have his name, please.

A Yes, I will have to think about it.

Q All right.

A I believe his name was Rudolph Hanke , Sgt. Hanke..

Q How do you spell it, please?

A H-a-n-k-e.

Q Do you know where he is at the present time?

A No.

Q When was the last time you saw him?

A In Gross Rosen when we had an action against the Russians, when Gross Rosen was defended.

Q Do you know whether he is dead or not?

A No, I can't give you any information about that.

Q And the maximum punishment he received was two weeks solitary, is that correct?

A Yes, because he beat the prisoners he got fourteen days solitary confinement.

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Q When did you join the Allgemeine SS?

A 1935. You mean me?

Q Yes.

A Yes.

Q When did you become a member of the Totenkopf unit of the SS?

A The 1st of May, 1941, I was drafted.

Q You were what?

A Yes, called into the ranks. It was an order which ordered me to join up.

Q You already were in the Allgemeine SS in 1935, weren't you?

A Yes.

Q And you were ordered to active duty in the Deathhead unit of the SS on what date?

A I got orders to go in on the 25th of April, 1941, through the Army order office in Neue Muenser.

Q And you remained an SS sergeant in the Deathhead unit of the SS throughout the entire war on duty in concentration camps; is that correct?

A No, I began as a common soldier, an ordinary private.

Q A private in the Deathhead unit of the SS?

A Yes.

Q No further questions.

PRESIDENT: Any further questions by any members of the court? Apparently not. Mr. McKay?

MR. M'KAY: Nothing further, sir.

PRESIDENT: Mr. Prosecutor?

PROSECUTION: Nothing further.

PRESIDENT: The court understands that the defense is finished with this particular witness at the present time?

(Howold-recross)

MR. M'KAY: That's correct, sir.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and left the court room)

MR. M'KAY: The next witness is being called on behalf of the accused Hla. Call Mr. Marwald.

BERTHOLD MARWALD, called as a witness by the defense, being duly sworn testified as follows through an interpreter:

DIRECT EXAMINATION.

QUESTIONS BY MR. M'KAY:

Q Will you state your name to the court.

A Berthold Marwald.

Q Where are you now residing?

A In the special camp 3 in Dachau.

Q You are now being held by the American authorities?

A Yes.

PRESIDENT: You are advised that if at any time you should be asked any question that might tend to incriminate you you have a right to ask the court to refrain from answering that particular question.

THE WITNESS: Yes.

PRESIDENT: You fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. McKay.

QUESTIONS BY MR. M'KAY:

Q Mr. Marwald, were you ever in Flossenburg Concentration Camp?

A Yes.

Q When were you in Flossenburg Concentration Camp?

A I was there since '41 until the evacuation.

PRESIDENT: Have the witness speak right up.

QUESTIONS BY MR. M'KAY:

Q In what capacity were you in Flossenburg Concentration Camp?

A At the end I was manager of the canteen.

Q Were you a civilian, a prisoner, or a soldier?

A I was a soldier.

Q What type of soldier were you?

A Noncommissioned officer, sergeant.

Q And what branch of the German service were you attached to?

A With the Waffen SS.

Q During the time you were in Flossenburg did you ever come in contact with a prisoner by the name of Karl Gieselman?

A Yes.

Q Will you explain to the court the nature of your acquaintance with the prisoner Karl Gieselman.

A Gieselman was the manager of the prisoners' canteen and he came to me in order to buy wares for the prisoners and in order to square his accounts.

Q How long did Mr. Gieselman hold this position in the prisoners' canteen?

A I estimate ten to twelve months.

Q Do you remember when he left the prisoners' canteen?

A I can't tell you the exact date any more today.

Q Can you give it to us in your best judgment?

A It was probably around May, 1944.

Q Do you know what became of Mr. Gieselman after he left the prisoners' canteen?

A Well, I just found out here through the interrogation that he became blockeldest.

Q After he left the canteen did you have any personal contact with him?

A No.

Q During the time he was in charge of the canteen did you

ever visit the canteen when he was present?

A Whether I saw him afterward?

Q No, whether you visited the canteen when Mr. Gieselman was present there.

A Yes, I visited the canteen.

Q Did you have an opportunity to observe how Gieselman treated the prisoners while he was in charge of the canteen?

A Not when things were being sold.

Q During your association with Mr. Gieselman will you describe to the court just what kind of a man you found him to be?

A During my activity with Gieselman I determined that he was a matter-of-fact and quiet man.

Q What do you mean by "matter-of-fact"?

A He was a business man, quiet, and he thought before he did anything.

Q Will you describe—Will you explain to the court whether you had any trouble with him of any kind?

A I had absolutely no trouble with Gieselman whatever.

Q Do you think you could recognize Mr. Gieselman if you saw him again?

A I sure can.

Q Will you look over the man seated behind me and see if you can see the man you knew of as Gieselman?

A The second. #14.

Q Let the record show that the witness has identified the accused wearing #14 as Karl Gieselman. You may cross-examine.

PRESIDENT: Cross-examine.

CROSS EXAMINATION.

QUESTIONS BY THE PROSECUTION:

Q You know nothing about Gieselman's conduct in the Youth Block at Flossenburg, do you?

(Warweld-cross)

A No, I can't tell you anything about that.

Q And so far as you know he was a good man for the SS; is that right?

A I can't tell you how he worked for the SS.

Q He purchased supplies from you, didn't he?

A Yes, he earlier bought the wares from me.

Q And the two of you did quite an extensive business together, did you not?

A I didn't get any personal profit from the earnings. I was a soldier and the money earned was put in the bank.

Q What type of insignia did you wear on your collar?

A A death's head.

Q How long had you been wearing it there?

A Since the time I was put in the Death's head unit of the SS.

Q When was that?

A In April, 1940.

Q And you served in the Deathhead unit of the SS throughout the war?

A Yes. And then I was transferred to do guard duty in concentration camps.

Q No further questions.

PRESIDENT: Redirect?

MR. M'KAY: Nothing further.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Did you ever get up around Block 14 during the time that Gieselman was blockeldest?

A I never learned to know Gieselman as a blockeldest.

MR. M'KAY: I think the court is mistaken. The block was 19, not 14.

PRESIDENT: The court was referring to Block 19.

(Marwald-court)

THE WITNESS: I didn't learn to know Gieselman as a blockeldest.

QUESTIONS BY THE PRESIDENT:

Q Did you ever hear any reports as to how Gieselman treated the men in Block 19?

A No. All my work consisted of work in the canteen and I didn't have anything else to do with prisoners.

Q You never heard any reports as to his relations with the inmates under him in this particular block 19?

A No.

Q You had no difficulties with him as far as the transaction of business is concerned,with respect to the canteen?

A None at all.

Q You have given the court some idea of your personal opinion of Gieselman,but what was his general reputation in the camp?

A I don't know what Gieselman had for a general reputation because I never talked to anyone about him. The only contact I had with Gieselman was in regard to buying wares for the canteen and I had no reason to talk to anyone about him.

Q Then the court understands you don't know anything about the general reputation of Gieselman in the camp; is that correct?

A That I don't know.

PRESIDENT: Any further questions by any members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Where was your canteen located?

A It was located outside the prisoners' camp in the Economic Building.

Q Did Gieselman come to your office to pick up the supplies or did you deliver them to his canteen?

A Gieselman came with some other prisoners to get the wares from me either in my office or in the canteen.

Q Did you visit him very often at his canteen?

A Once a week I visited him in order to check a metary matters and the amount of supplies at hand.

Q That's all.

PRESIDENT: Any further questions by the court? Apparently not. Redirect?

MR. M'KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: The court understands, Mr. McKay, that the defense is finished with this witness?

MR. M'KAY: Dr. Wacker has just handed me a note that it is possible that this man may be recalled later on but we are completed with him at the present time.

PRESIDENT: Dr. Wacker, you will have an opportunity to recall this witness at a later period if you see fit. The witness is excused.

(Thereu on the witness was excused and left the court room)

MR. M'KAY: Let the record show that the accused Jakubith, Risbusch and Noye have now returned to the dock. At the present time the accused Jakubith desires to take the witness stand in his own defense.

PRESIDENT: Jakubith, the court understands you desire to take the stand in your own behalf; is that corr ct?

ACC JAKUBITH: Yes.

PRESIDENT: Proceed, Mr. McKay.

ALOIS JAKUBITH, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION.

QUESTIONS BY MR. M'KAY:

Q Mr. Jakubith, x you are one of the accused in this case?

A Yes.

Q Mr. Jakubith, were you a prisoner in Flossenburg Concentration Camp?

A Yes.

Q When did you go to Flossenburg Concentration Camp?

A 26 November 1938.

Q And how long did you remain in Flossenburg?

A Until the end.

Q Will you explain to the court how it came about that you were sent to Flossenburg Concentration Camp as a prisoner.

A On the 2nd of August, 1938, I was arrested by a woman. I was in a cafe with three comrades of mine. A woman came in with an official of the criminal police. I never had seen the woman in my life before. I was brought to the police station in the Hanke Strasse in Berlin and as it turned out it had been an agent of the police. The woman maintained that I had insulted her and I had called her Old Mother, which never was the case. I was sent to the head police department in Berlin. There I was mistreated, beaten day and night, and I was supposed to betray the three comrades who had drunk with me but I didn't do it. They said they would tear up the report which was supposed to send me to the concentration camp and they said that they would go so far as to put a knife to my throat, and still I didn't do it, and then they told me I would be transferred to the concentration camp, I was a professional criminal, asocial and harmful to the people. They first wanted to send me to the political department, but they didn't do it, because of my political activities before the Nazis took over. In the second of September, 1938, I came to Sachsenhausen. There I got a green triangle and 25 blows with the stick. Farinofsky, the commander of the camp at that time, was the one who did it, and he accompanied that with the

words "We will never become good friends, you have crafty eyes". On the 26th of November, 1938, I came to Flossenburg.

Q Prior to the time that you got into this trouble in Berlin with the woman had you ever had any previous convictions?

A Yes.

Q Explain to the court the nature of those convictions.

A I got into trouble with the law during the time of unemployment when I couldn't find any work and the Government at that time didn't see to it that I got any work, didn't offer me an opportunity to earn a living.

Q How many previous convictions had you had at that time?

A Four times.

Q What color triangle did you wear while you were in Flossenburg Concentration Camp?

A A prisoner put in there for safekeeping.

Q What was the color of it?

A Green.

Q What kind of a prisoner were you classified as during the time you were in Flossenburg?

A As a habitual x criminal.

Q At the time you came into Flossenburg were you ever interviewed, interrogated,or anything before you were given your triangle?

A No.

Q Were you in Flossenburg on the 1st of January in the year 1942?

A Yes.

Q What detail were you working on at that time?

A In November, 1942 I was transferred as a stone cutter.

Q What had you done prior to that?

A Stone cutter.

Q Where did you work as a stone cutter?

A In halls 3, 4, 5 and 6.

Q How long did you work as a stone cutter?

A From the 26th of November, 1938, until November, 1942.

Q During the time that you were a stone cutter did you ever receive any special training of any kind?

A Yes.

Q Will you explain the nature of that training to the court.

A In the year 1940 various German prisoners were picked out in order to take part in stone-cutter courses. It was merely a training in order to teach the people how to work over the stones.

Q How long did you spend at that training?

A Three months.

Q Did you complete any kind of an examination at the end of that training?

A Yes.

Q Explain that to the court.

A We had a technical examination and then we had an examination in practical application.

Q How long did you continue to work as a stone mason?

A Until November, 1942.

Q What happened to you in November, 1942?

A I asked the camp physician, at that time Dr. Schnabel, to relieve me of this work because I had continual trouble with my breathing and I couldn't take this dust in my lungs, and after that I was relieved of my duties as a stone cutter.

Q Where did you then go to work?

A In January, 1943, through top-sergeant Fisher I was sent to Quarry #1 as assistant capo.

Q Who was the capo which you assisted at that time?

A Rochel was capo in quarry #1.

Q How long did you remain in quarry #1 as assistant capo?

A Until June, 1943.

Q Then what happened to you?

A Rochel was relieved of his duties in quarry #1, came to Rumpelsbach, and after that went to Auschwitz.

Q Will you explain to the court where the quarry was located in relation to the camp of Flossenburg.

A It was about 1½ kilometers from the camp to my place of work.

Q How did you go from the camp to your work each day, what method of transportation?

A On foot.

Q Will you describe to the court the work that was done in quarry #1 during the time that you were assistant capo and later capo?

A The dirt and earth was removed from the cliffs so that the quarry master could go closer there and then with compressed-air drillers holes were bored by the prisoners and then the quarry master came and would put an explosive cartridge into the hole, dynamite, and it was tied on to an electric cable and then he gave a signal three times so that the prisoners could return to the halls, and then after the explosion had taken place an all-clear signal was given and the prisoners went back to their work;and then the borers were sent over there to the spot with the quarry master in order to break out the stone with crowbars. Then there were prisoners went up on the cliffs, holes were drilled again and crowbars put in them, then a rope was tied on to the iron bar and the other end tied around the stomach of the prisoners and when the work was

finished the rope was taken off these prisoners and they came down again from the cliffs. That was merely the prescribed routine from the factory director.

Q During the time you worked in the stone quarry what unit or organisation operated the quarry?

A By commando?

Q No, I mean the entire quarry.

A The German Earth and Stone Works.

Q During the time that you were in the quarry do you know what connection this firm had with the concentration camp of Flossenburg?

A No.

Q Now was any other work done in the quarry except this blowing the rock loose and breaking it off the cliffs?

A Yes.

Q Explain that to the court.

A There were about thirty small drilling machines in Quarry #1.

Q How were those machines powered?

A The air came through the compression machine from the engine house and was conducted to Quarry #1 through tubes. An air hose was attached to these tubes and attached to these tubes were the air hammers. The workmaster would assign certain stones and the prisoners would bore holes in them with the drillers and sometimes they would chip them off with hammers.

Q Will you explain what was done with the rock; was it broken up into fine rock or what? Were various types of rock prepared there for various purposes?

A These stones in the quarry which I had to do with were

made into factory stones, bricks, and paving stones, and cars with wheels took these stones into the stone cutters' hall and there they were worked over by the stone cutters; and uncut stones, raw stones, were also taken to the railroad station and the bricks, the wall stones, were gotten by civilian people. The refuse was loaded into small cars and taken to the dump.

Q In the year of 1942 will you explain to the court how many quarries were actually in operation in Flossenburg?

A Four.

Q In 1943 how many quarries were in operation?

A Still four.

Q In 1944 how many quarries were still in operation?

A Only Quarry #1.

Q Will you explain to the court why only Quarry #1 operated in 1944.

A The other quarries had been put out of operation because the armament works had been built there.

Q Will you explain to the court just where the armament works were built in relation to the quarries.

A The former stone cutters' halls were converted into armament works.

Q From 1944 on how many people worked in Quarry #1 under you?

A The number varied constantly.

Q Give us an estimate of how many people worked under you.

A In the beginning of the year 1943 I had 200 and in '45, 80.

Q Will you explain to the court the nationalities of the prisoners who worked on your detail.

A I had four Germans and usually prisoners of war, Poles,

Czechs, Greeks and Italians.

Q Mr. Jakubith, I would like to have ou explain to the court your duties which you had when you were assistant capo.

A I had to see to it, as assistant capo, that all the prisoners were at their place of work, that nobody went and took walks, and nobody beat each other, and that nobody went and hid himself when we were marching away from work and marching out of the camp.

Q Will you now explain your duties to the court when you were a capo in the quarry.

A I had to see to it that the work was done and that the prisoners did the work assigned to them and that no prisoner called the attention of the commando leader, and to see to it that the prisoners were busy at work when the camp commander and the camp leader came.

Q Will you explain to the court just what benefits you received by reason of the fact of being a capo.

A None.

Q When you were made capo were you given any choice of taking the job?

A No.

Q Will you explain to the court whether you did anything to keep from being a capo.

A Yes.

Q Explain to the court what you did.

A In 1943 I went to be relieved of my duties through the commando leader, top-sergeant Fisher of the SS. He said that was out of the question "or else you will get 25 blows with the stick". He wanted to know the reason and I didn't tell him but I wanted to be relieved of my duties for the simple reason that I couldn't work with Rochel any more.

Explain to the court why you couldn't work with Rochel any more.

A Rochel was a brutal man, he mistreated the people. In 1942, together with the commando leader top-sergeant Fisher at that time, the two of them would constantly take the bread away from prisoners. Top-sergeant Fisher was in on that, too. Rochel often drove people to desperation at various times by driving them into the wire and I told him that he shouldn't do it and he said if I tried to tell him what to do I would have to go the same way. I went to top-sergeant Fisher and I tried to get relieved again and it was denied again.

Q Will you explain to the court when you would go to work in the stone quarry.

A At 6:30 in the summertime we went off to work in the quarry. t 9 o'clock in the morning we got our breakfast.

Q What did you get for breakfast?

A Bread, 200 grams of bread, and either a small piece of of sausage or else the bread would be smeared with margarine.

Q Will you explain who distributed this bread at 9 o'clock in the morning.

A I went to the clerk's office and got the bread myself and distributed it in Quarry #1.

Q Will you explain to the court the method that you followed in distributing this bread among the prisoners.

A The prisoners had to fall in by fives in order to make sure that they were all there by counting them because it always happened that prisoners from other work outfits would force their way into my work outfit. Then I counted out the portions of bread and distributed them to the prisoners. The rest period lasted ten minutes.

Q How long did you work until you received your next meal?

A Until 12 o'clock.

Q At that time what did you as capo have to do with the distribution of food?

A At 12 o'clock when the signal went off, when the sirens blew, I ordered the prisoners to fall in and distributed the food and just as before I had them fall in by fives in order to check the strength of my work outfit and then I distributed the food.

Q In what form was the food that you received to distribute for the noon meal?

A It was already cooked.

Q Was it solid food or just how was it mx prepared?

A It all depended; sometimes it was thick and sometimes it was thin.

Q How was it brought to the quarry?

A People went in automobiles and got the food from the camp to bring it into the quarry and then I took some prisoners from my outfit in the quarry and went and got the food in the clerk's office.

PRESIDENT: The court will take a half an hour's recess.

(Whereupon at 1500 hours the court recessed).

(Whereupon at 1535 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the defense are present with the exception of Col. Wilson, Maj. Oeding, Mr. Hall and Mr. O'Connor who are absent on business of the accused and all the accused are present with the exception of Buddensieg, Olschewski and Oswald who are sick in the hospital and whose interests are being taken care of by their counsel; all the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter who are absent on business of the

prosecution.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Continuation of direct examination. Mr. McKay.

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. M'KAY:

Q Mr. Jakubith, before the recess we were talking about the distribution of food at noon, at twelve hours, do you recall that?

A Yes.

Q In what kind of containers was the food brought to the quarry for the noon meal?

A In kettles which contained fifty liters.

Q Will you describe to the court how that was distributed at the noon meal to the prisoners.

A The prisoners from my detail had to fall in by fives. Then I counted off the people to see if the total strength of my outfit was represented, to see whether anyone was missing from my outfit or someone from another outfit had sneaked into mine, and then I gave each prisoner his food per liter and then if there were any food left over I would distribute it to the prisoners as deserving. Usually I got an extra kettle of food from the clerk's office for my outfit, I went and got it and distributed it to the prisoners.

Q What time did your detail go to work then after lunch?

A One o'clock.

Q How late did they work in the evening?

A Until five o'clock.

Q Mr. Jakubith, I would like to have you explain to the court

just what checks were made of your detail when you went to work in the morning and then when you returned to the camp at night.

A In that respect I ask to be allowed to give the following explanation. In the morning, before we marched out of the camp, my outfit had to stand in readiness to march away. When my commando marched out of the camp they had to keep step, they had to be in rank and file and keep the ranks. Nobody was allowed to speak and when I gave the command to take off their caps at the guardhouse everyone had to take off their caps. It often happened that prisoners in the outfit would not follow this procedure, this order, and the capos of the different outfits would be called to account by the Adjutant Baumgartner. Every day he stood at the entrance of the camp with the camp leader Fritsch. If any prisoner would call attention the capo would be called immediately to the clerk's attention and then he himself would have the capo punished with 25 blows of the stick or else he would strike the foreman with keys which he had in his hand, he would strike him in the face with the keys. Capt. Fritsch of the SS beat me myself until I was bloody when I was marching out once. When I was marching out I had an outfit consisting entirely of Frenchmen. I couldn't understand these people because I couldn't speak their language and I ordered them to take off their caps in front of this captain and they stood still and Capt. Fritsch of the SS came up to me and beat me until I bled. And this happened also with various other foremen, various foremen. Once I reached the quarry with my prisoners I had to search through all their pockets, I had to look for knives, smoking materials, pipes, cigarette lighters, doubled underwear or torn-up pieces of blankets and cigarette holders which had been made in the Messerschmitt factory. I searched through all their pockets and took everything away from them that

I found. I warned those prisoners but I didn't report them. I was responsible for this matter. The commando leader of the SS was the one who ordered it.

Q What became of these items you would take out of the prisoners' pockets?

A I destroyed them.

Q Will you explain the checks that were made of the number of men you took to work in the morning and the number of men you brought back at night to the camp.

A The blockleader at the blockhouse counted off the prisoners in the morning when they marched off to work.

Q And who checked them at night when they came back?

A The same thing at night.

Q During the time that you were cape in the quarry did you ever have any prisoners who became sick or injured on your detail?

A I did have sick people in my detail.

Q Explain to the court what, if anything, you did with your sick people.

A When we started marching off toward the quarry various prisoners of all nationalities would come to me and tell me they were sick and I turned these prisoners over to the camp leader Uhl with the remark that they were sick. If a prisoner would get sick at work in my outfit and had a fever then I would let him sit in my personal room or next to the stove and if he were seriously ill I would bring him myself to the clerk's office in the quarry and from there he would automatically go to the hospital in the camp. I always wrote down the numbers of the people in my outfit who were incapable of working and turned them over to 1st. Lt. Schubert who is sitting here in the dock and I always asked him to relieve these

people from work in my detail and he did that also. I asked him to replace these workers with other workers from the camp but didn't get any replacements. Usually they sent me sick people from the camp as replacements. Most of them got sick because they sold their luncheon and breakfast for cigarettes, chewing tobacco, and tobacco wares; that was the reason they got sick and couldn't work and had to be carried back at night. I did what I could to prevent these dealings among the prisoners, their selling food for cigarettes and smoking materials. If anyone had an accident in the quarry I immediately saw to it that he received medical treatment by bringing him to the hospital.

Q During the time that you were in the stone quarry will you explain to the court just how you treated your prisoners that worked under you on your detail?

A I treated them well.

Q Just explain to the court how you treated them, what you did for them.

A I already said that the capo Rochel was with me who mistreated prisoners, who beat them, and made them so desperate that they ran into the wires and were shot to death, who embezzled their breakfast bread; if the people got sick he would beat them and make them keep on working. And in that moment when I took charge of the detail all the prisoners were contented. I cut down the tempo of work in comparison with the tempo which Rochel had demanded; I left them alone when they were working; I didn't report anybody and I didn't chase anybody into the wire and I didn't beat anyone to death, either.

Q Did you ever beat anybody?

A Yes.

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Will you explain that to the court?

A In the evening when we marched together from work out of the quarry to the camp I couldn't see all the people in my detail, the quarry was big and there were always some missing. During working hours they went in back of the halls of the Messerschmitt factory and would hide among the stones and go to sleep and in the evening they didn't hear when the time to stop working came. I didn't know who was missing and I had to find out the exact numbers according to the detail book which I kept with me. When I found them, the first time I would warn them; when that happened the second time I would give them a couple of boxes on the ear. But I never reported anyone. If I had reported them they would have gotten the worst of it, worse than the box on the ear which I gave them. If I had reported them they would have been imprisoned in the bunker and perhaps hanged. And in that same way during the working hours prisoners would steal each other's bread and I continually warned them but it didn't do any good, and I also gave them a box on the ear. I beat a prisoner once with a rubber hose, it was an ordinary hose, because he constantly picked the boxes of the others and stole their bread.

Q Mr. Jakubith, I want you to demonstrate to the court just what you did when you boxed a prisoner on the x ear. I want you to show the court just how much force you actually used when you would box a prisoner on the ear.

A I didn't use any force.

Q Stand up and demonstrate.

A I gave him a few like this (demonstrating) and then the case was closed as far as I was concerned. There were people there

who would take their bowl and dip it into the food kettles and steal food in this way when I wasn't present or when the assistant Russian capo wasn't there and I also gave them a few slaps, or else they let the kettle fall, dropped it on the ground, and attacked the food there.

Q Will you explain to the court just why it was necessary to box prisoners on the ear when they would spill food?

A I would rather give a prisoner a box on the ear than report him.

Q Will you explain to the court whether you would ever get any other food if food were spilled or destroyed during the meal time?

A No.

Q Will you explain to the court what persons worked in the quarry besides yourself and prisoners during the time you were there.

A Earlier in the year 1942 there was a punishment company there but this detail never belonged to my detail. I didn't have an thing to do with this detail. That was under the supervision of a capo.

Q What do you mean when you say "punishment company"?

A This detail was under the supervision of the camp. The quarry didn't have anything to do with it. These prisoners were quartered in Block 7 and segregated there. They didn't come into contact with my detail and at the end they were working at pond construction. In 1943 the punishment company was dissolved and the only thing that was known to me was the transport detail in the quarry.

Q Now I want you to explain to the court just what methods were used by the prisoners that worked under you to carry rock.

A Often when stones were carried I would have four prisoners carrying the same stone to load it into the little car. The stone which was on the litter and being carried would have a weight sometimes of about 75 lbs. When a man carried a stone the stone would weigh about 10 lbs. and these stones were carried out of the quarry into the little cars and then these little cars were dumped on the slope of the hill. I always saw to it that the prisoners received litters and I never made anyone carry a stone in order to punish him. I never had my prisoners carry stones which weighed 105 lbs. as a prosecution witness stated. I never heard of any such cases in the quarry. Usually the prisoners carried small stones around 10 lbs.

Q During the time that you were in the quarry, working there, do you know how much pressure was kept in the tubes to operate the boring machines which you used in the quarry?

A I would estimate four to five atmospheres.

Q During the time that you were in the quarry how many separate items of air-driven machinery did you have?

A There were 34 in the works there in the year 1945.

Q How many did you have in '44?

A The same.

Q '43?

A There were around 70 then.

Q Will you explain to the court what method you used in order to give orders for foreign prisoners who worked in your detail?

A I had an interpreter.

Q When you were capo in the quarry did you have any assistants?

A I had two assistant capos with me in the detail.

Q Were those men the same all the time?

A They were two Russian prisoners of war.

Q Mr. Jakubith, I would like to have you explain to the court what, if anything, you had to do with the selection of prisoners who worked on your detail.

A I had nothing to do with this selection. These people were apportioned to me from the clerk's office. They were sent to the quarry to me.

Q Will you describe to the court the physical condition of the prisoners who worked under you while you were capo in the quarry.

A I daily asked 1st/Lt. Schubert of the SS to send me people and whenever I got people from the camp they were always in a terrible state and I kept on asking that these people be exchanged for others and I put myself into communication with this Lesher in the clerk's office and he always sent them back to me. I kept on asking 1st/Lt. Schubert to exchange my people for others but I never succeeded in getting any. He never gave me any and he told me he couldn't do it because the camp commander Koegel would not give him any and as it was he was in bed with Koegel and Koegel had given Schubert the answer "Armament must go on, but not the quarry."

Q Do you recall any cases of accidents that you had while you were capo of the stone quarry?

A Yes.

Q Describe this to the court.

A I had an accident take place in the quarry in 1944, I can't remember the exact month. We were laying canal pipes. I cut off the canal on both sides with wooden walls. In the night it rained and there was a landslide and two prisoners were working in there in order to remove the sand, the sand collapsed and the two prisoners

dropped down into the sand up to their waists. Immediately 1st/Lt. Schubert who is sitting in the dock here came over and had these two prisoners released by having the sand removed and I myself helped in that and these two prisoners got out without being injured and took up their work again. I continually warned the prisoners in regard to accidents. In 1943 a prisoner was trapped by a stone which he had pried loose and had squashed the lowerm part of his foot, but only through his own fault, and he immediately went to the hospital.

Q Mr. Jakubith, I want you to explain to the court how the tools were distributed to the men who worked on your detail each day.

A In the morning when I arrived with my detail in Quarry #1 I divided up the work among the workers. The people who had to clean up the dirt would be in one group and the borers in the other, and the drillers in the other. I had a tool room in the quarry and I employed a prisoner there and it was his duty to give out the tools and every day this prisoner distributed the tools. They took their tools, hammers, shovels, pipes, and their drilling machines, and went to work; and in the evening when the work was finished the tools were put back in this tool house.

Q Did you personally have anything to do with the distributing of these tools?

A No.

Q Mr. Jakubith, I want you to explain to the court the situation with regard to men working near these little cars where rock was loaded on to be taken to the quarry halls and to the dump.

A The stones were loaded on to the flat cars by means of a crane. Chains were put around the stones, tied on to the crane and lifted by the crane on to the flat cars. Five prisoners would

then drive these cars with stones into the halls of the stone cutters and in the stone cutters' halls I had four prisoners who were working in the stone transport detail. These people belonged to my detail and unloaded these stones from these cars; they used crowbars for this purpose. And then these prisoners took these cars back to the quarry again.

Q Will you explain to the court just how these prisoners worked to these cars as they were moved to the stone masons' hall.

A On each side of the little cars there were four hooks and each hook had a rope attached to it with a length of four meters and since the terrain there went down hill there was a crowbar attached to the rear of the car in order to decelerate the speed of the car going down hill. It often happened that prisoners merely let the cars roll down into the stone cutters' halls. One case is known to me where the prisoners let a car run free because the slope was too steep and the car blitzed down into the stone cutters' hall. These doors were shut and to the right and the left prisoners were working at stones. I gave these prisoners a few slaps. If I had reported them they would have gotten 25 blows with the stick up in the camp because of sabotage and I always avoided that.

Q Will you explain to the court how much of a grade it was from the place where these cars were started out running down to the halls where the rocks were unloaded for the stone masons to work on.

A It had an incline of around 25 cm.

Q During the time that you were in Flossenburg what blocks did you live in?

A I was quartered in various blocks. I stayed in Block 7, 8, 3, 2, 1 and also in the training block there I took part in this stone cutter's course.

Q During the time you were capo in the stone quarry in what block did you live?

A I stayed in Block 1 for some time.

Q How many prisoners lived in Block 1 at that time?

A When I was there 120 prisoners were quartered in Block 1.

Q What were the nationalities of these prisoners?

A Most all of them were foreigners, Poles, Czechs, Russians, and Hungarian ministers.

Q Will you explain to the court where the prominent prisoners lived in the camp.

A In Block 1.

Q Will you explain how come you happened to live in Block 1.

A In '42 Block 7 was transferred to the other blocks because the punishment company went in there and that was the way this block was dissolved and we were distributed around among all the other blocks and I ended up in Block 1.

Q Was there any of the other capos who lived in Block 1?

A Three.

Q While you were with your work detail did you wear any kind of insignia as a capo?

A Yes.

Q Explain to the court what that was.

A On my left arm I had a black cloth band and there was a "V" written on it and my detail, Quarry #1. The "V" stood for foreman.

Q How long did you wear that.

A From the Fall of '43 until the middle of March, '45.

Q During the time you were capo in the stone quarry what kind of food did you eat?

A I got the same food as the other prisoners.

Q During the time you were capo in the Messerschmitt factory what kind of living conditions did you have——capo in the stone quarry I mean.

A We were pretty crowded.

Q What do you mean "pretty crowded"?

A Various ones got sick. In '44 I was sent to the hospital because of yellow jaundice.

Q How long were you in the hospital?

A Four weeks.

Q Will you explain to the court what, if any, disadvantages you feel you had by being a capo.

A I only had trouble and annoyance. I constantly had to check up on the prisoners to make sure that nobody escaped, that nobody was sleeping when work was going on, I had to see that they were all at work, the prisoners, and that the prisoners among themselves didn't make any black market dealings. I had to see to it that the prisoners marched in and out of the camp in an orderly fashion. I was standing with one foot more in the arrest than out of it.

Q You have spoken several times of a commando leader in the stone quarry. Will you explain that to the court?

A Yes. They were 35 people.

Q Just what relation did the commando leader have to the detail that worked under you?

A The commando leader was responsible for the entire detail and I had to carry out his orders. I was responsible to him that all the prisoners were working and I was responsible to see that nobody was missing.

Q How often was your detail checked to see whether the prisoners were working, by the commando leader?

A I had to give a daily report on it.

Q How many times did the commando leader himself

come around and check whether the prisoners were working in a period of a day?

A It all depended. Twice a day.

Q Explain to the court what happened when the commando leader found someone was not working on his detail.

A Then I would be called to account for it.

Q Explain to the court just what happened when you were called to account for it.

A It happened daily that prisoners would leave my detail and would run around inside the Messerschmitt halls or else they would take a walk or go to the latrines without permission and these commando leaders demanded I make a report about it. I said "Otherwise he is a good worker, in other respects he is a good worker and we should do without reports". There was a commando leader Doelch who made a report about me to the top-sergeant of the SS,Kueppler. In the evening after the roll call I was called up to the clerk's office and he said to me the men under me were cooking, sleeping and reading. I denied it all and said "That's impossible" and he said "Here the commando leaders are standing who told me that". The top-sergeant of the SS,Kueppler, told me that these people would have to do hard work in the quarry the next day. I didn't make the prisoners work any harder, I left them alone at their work. The next day the commando leader Doelch came to me and said "Where are the people?" and I told him they were working. "Where?" I said "They are doing their old work, they are at the crane". And he said "Since when do you give orders?" I said "They are good workers and I need them" and he agreed to that.

Q Explain to the court just what relation the civilian masters in the quarry had to the detail that you worked on.

A I was responsible to the civilian masters, I and my detail. They would tell me what work to do and I would have to have the work carried out through my prisoners. They would direct what stones would

be bored by the prisoners and then that would be done. The civilian masters had more power than I and I had to obey that they said. I made various reports in regard to the quarrymaster Schnappauf. I reported him to Schubert. I said that this man demanded of me that the people did hard work, that the stones which four men were carrying were too light for four persons, and that they were constantly sitting next to the stove in the knicknack room and that he beat the prisoners. That's what I always told 1st/Lt. Schubert of the SS, and then he was transferred.

Q Who was transferred?

INTERPRETER: That was wrong. "Then they stopped" instead of "he was transferred".

WITNESS: He ordered that the beatings of Schnappauf cease and they did.

PRESIDENT: The court will take a short recess.

(Whereupon at 1630 hours the court recessed)

(Whereupon at 1638 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Minter and Mr. Berkowitz who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Col. Wilson, Maj. Oeding and Mr. O'Connor who are absent on business of the accused. All the accused are present with the exception of Buddensieg, Olschewski and Oswald who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

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PRESIDENT: Mr. McKay.

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. M'KAY:

Q Mr. Jakubith, during the time that you were a prisoner in Flossenburg did you ever hear of any cases of where a capo beat a prisoner so severely that he died as a result of it?

A No.

Q Do you know why Rochel was taken out of the quarry?

A In 1943 he took over Rumpelsbach and then he went to Auschwitz and as I found out from prisoners who came from Auschwitz to Flossenburg the foreigners there in Auschwitz had beat Rochel to pieces because of his brutality. There he tried to use the same methods that he had used in Flossenburg.

Q Do you know of any other cases of capos who were brutal in Flossenburg?

A Yes.

Q Do you know what became of these capos?

A I know of a case in regard to Nicheff.

Q Do you know what happened to him?

A He was transferred out of this detail but he got 25 blows with the stick and tried to involve me in this affair---did involve me in this affair. In the year 1944 he, together with top-sergeant of the SS, Kueppler, beat a prisoner so badly that he died later in the hospital and Nicheff dragged me into this matter by saying that I also helped with the beating and brought this prisoner into my detail, but I knew that Nicheff together with top-sergeant of the SS, Kueppler, had beaten this prisoner. I was called to Capt. Fritsch and Capt. Fritsch said that I had beaten a prisoner and in January or February of 1945 I got 25 blows with the stick because of a report that I got. If I had betrayed the fact that it was top-sergeant Kueppler who had done the beating they would have hanged me but I

was innocent of this affair. My fellow colleague here in the dock, Mathei, was the one who was supposed to give me the 25 blows with the stick. The campeldest said to the ter-sergeant Kuppler "I will not give Shorty these 25 blows with the stick" and he didn't do it, because he knew I was innocent of the matter. Michoff got his 25 blows with the stick and then was transferred out of the transport detail and then he had to do work in the horse stables. I would like to mention that this incident took place in the year 1943.

Q Mr. Jakubith, you stated that in 1945 your detail was cut to eighty men. Do you know why that was done?

A Because I didn't get any prisoners from the camp, because all the prisoners ended up in the Messerschmitt halls. I constantly asked Schubert for people. He was the manager of the factory but he couldn't help me and I didn't get any people. I daily went to the clerk's office in the quarry to try to get people because I couldn't make out with the work as it was, I couldn't do the work which the quarrymaster Schnappauf asked of me. Daily I got people from the Messerschmitt halls who couldn't work because there was a material shortage.

Q Will you explain to the court what you observed with regard to the nationality of the prisoners who occupied the positions of capo and blockeldests and the like during the time you were in Flossenburg.

A There were various blockeldests who were Poles, Czechs; orderly service usually consisted of foreigners of all nations; likewise in the kitchen, in the warehouse, in the SS room and in the personal effects room, barbers, interpreters and the handymen of the SS consisted of prisoners of all nations, and there were even

capos there who wore a cloth insignia,on the arm, of a foreman. In 1943 I had a Russian prisoner of war whose name I don't know any more and he himself was wearing a cloth band on his arm to represent foreman, the same as I was wearing, and in the stone cutters' hall there was also a Pole as the capo who wore this foreman's cloth insignia, and the same way the capo in the gardening outfit also wore a foreman's cloth insignia. The capo in the horses' stalls had been a Russian colonel. I only know him by the name of Nikolai.

Q You have spoken several times of going to the clerk's office. Will you describe to the court what you did on these trips when you would go to the clerk's office.

A In what clerk's office, the quarry clerk's office or the camp clerk's office?

Q In the quarry clerk's office.

A There I kept asking for more food for the prisoners because they were exposed to inclement weather in regard to the people who worked in the Messerschmitt factory and I daily got food for the prisoners from the clerk's office. Then I brought people there who were sick and had fever and I also asked for people to work with my outfit.

Q Explain to the court what disciplinary action was taken in the clerk's office of the quarry.

A I saw the prosecution witness Lesak who appeared here against me beating prisoners there a number of times. He himself brought people to my commando, to my outfit, who had been beaten and said "Pipl, Shorty, these people will have to do hard work", and he beat them in my presence. He constantly asked me to release people from my detail, from the work which we were doing, and put them back in the camp where they would have easier work and in

order to carry out his wish I released Czechs at various times from my detail.

Q Will you explain to the court just what reports you received from anyone with regard to prisoners coming into the hospital who claimed to have been beaten by you.

A I didn't get any reports and I never was admonished. I consider that a lie.

Q Do you recall seeing the man Radecki who testified against you in the detail that worked under you?

A I can't remember this name. I can't remember the individual prisoners, however.

Q Do you recall having any trouble with any prisoners with regard to failure to take precautions with the care?

A Yes.

Q Do you recall the man that you had that trouble with?

A With this Radecki.

Q Have you ever seen him again?

A I saw him here in the witness chair.

Q Just what was the nature of the trouble you had with him?

A In 1944 Radecki came into my detail. He was pretty run down and he asked me for lighter work. I gave him easier work which consisted of his cleaning up the quarry with a rake and every day I gave him more food. He was happy with me and then he asked me whether he couldn't go to the Messerschmitt halls and I fulfilled his wishes. I know why he appeared against me here as a prosecution witness. I constantly warned him against publicly appearing in the streets of the quarry. I didn't want to have to report him and I said "Especially in regard to the foreigners you will have to make a good example" and he told me that I had no right to give him orders and I said "Here in Quarry #1 I'm the head man"; and since that time

he constantly carried out intrigues against me in the camp, and it was this man above all that I helped. I never beat the man. I gave him work to do with the small cars, he oiled up the small cars when they were not being used and he would let the small cars roll out of control down the track and I meant well when I told him about it but I didn't beat him. I was very indignant when I asked my defense counsel that I wanted Radecki to appear here as a defense witness for me; after he had taken the witness chair and had testified against me in regard to matters which were not true I was very indignant. He said that Rochel had been there in that time when I put the hose in the mouth of the prisoner and at that time Rochel was not with my detail at all and I never put a hose in the mouth of a prisoner. He said that that had spread like wildfire around the camp and that the prisoner had gone to the dogs because of it and that he almost burst, and I never did such a thing.

PRESIDENT: The court will adjourn to 9 o'clock tomorrow morning.

(Whereupon at 1658 hours the court adjourned).

(Jakubith-direct)

CA/GI 13 (5)

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Court OK. First Duplicate Copy

FLOSSENBURG V/1

Case No.

Pages 3986 - 4068 Incl.

*~~Summary~~
*~~Intermediate Military Court~~
*General

Prosecutor

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 25 September 194 6

Reporter

0900 - 1700 hours

~~Members of the Court~~:

WITNESSES:

ALOIS JAKUBITH

KARL GAUTSCH

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

25 Sept. 1946 0900 hours to 1700 hours Pages 3986-4068 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
ALOIS JAKOBITH	3986 3994	4005 4020 4043			
KARL GAUTSCH					4059

Ta 465-9/25-eb-1

Camp Dachau, Germany
September 25, 1946

MORNING SESSION

(Thereupon the court reconvened at 0910 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, Let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Major Seding and Mr. Hall who are absent on business of the accused, and all the accused are present with the exception of Buddensieg, Oswalt, Olschewski, Lisbusch and Graeber who are sick in the hospital, and Fahrnbauer who is conferring with his counsel.

The interests of all those accused who are absent are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court has appointed Elizabeth Beckingham as court reporter. She will be sworn.

(Thereupon Elizabeth Beckingham, British civilian, was sworn as court reporter.)

PRESIDENT: Mr. McKay, direct examination.

DIRECT EXAMINATION

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

QUESTIONS BY MR. McKAY:

Q Mr. Jakubith, when did you cease being capo in Quarry I ?

A When I was transferred to the camp police.

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Q Do you recall what day that was?

A I don't know the day, it was the beginning of April of the year 1945.

Q Will you explain to the court how it came about that you were transferred to the camp police?

A In March 1945 the Commandant Koegel, I had a formation block 1 and block 2 behind the wire with the words that he would take all Germans out of the camp to defend it. He did not want to spill any German blood inside the camp and so block 1 and block 2 received Italian uniforms automatically. All of the German prisoners followed, we were drilled and received training in manual of arms. . . In April 1945 we were taken to the barracks of the guards behind the barbed wire and on a Sunday in April all guards had to fall out, all camp policemen had to fall out and we marched for about 60 kilometers into some woods. At night, 2 o'clock, we returned to the camp. On April 20 we left for Camp Flossenburg. We were equipped with a rifle. We had several different types of rifles, some had Italian rifles, some had German rifles, some had Czech rifles and ammunition was always mixed up. The man always got the wrong ammunition to his rifle. We were just to accompany the march to Dachau. First Sergeant Klasen who was our company commander, gave us the order to shoot to death any prisoner who would fall behind alongside the road. On this march to Dachau no man of the camp police shot to death a prisoner. Prisoners were shot to death by the SS who escorted the march and these prisoners were then buried by four other prisoners who were under Corporal Herde who is now in the special camp here. We never volunteered for the camp police. On this march whenever prisoners refused to shoot anyone they were threatened by the SS court guards to be shot themselves. I have seen prisoners lie there quite a few times.

(Jakubith - direct)

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I didn't shoot anyone, I kept on going. I myself was guard in the meadow with a man who was a prosecution witness here, Kautsch. Koegel issued orders to the First Sergeant Glasen that whenever we would approach the fence to throw in any food to the prisoners we would be shot by the SS.

Q When was that?

A That was when we were guards.

Q Was that while you were living in the SS barracks?

A Yes.

Q Did you get to Dachau on the evacuation?

A No.

Q What happened to you?

A We were liberated by American troops near Roeding Pilsing.

Q When were you taken into custody for your activities in Flossenburg?

A I don't understand the question.

Q When were you taken into custody which resulted in this trial?

A 25 July 1945.

Q Who made the arrest of you at that time?

A I have to mention here that I had been arrested once prior to that. I would like to explain this incident to the court. On April 23 I was arrested by a Russian in Rleobach on the river Regen by a Russian who had denounced me, a man who had been in my detail in former times. I was in a farmhouse when the Russian prisoner with an American entered the house and told me to come along. The Russian took away my watch, my cigarettes, my money, my wallet and beat me up in front of the Americans and he mistreated me. The American did the same. He mistreated me and then he wanted

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to shoot me to death. He placed me in a meadow and told me to put my arms like this and then he wanted to shoot me. I showed him my chest and told him to shoot me. The Russian prisoner denounced me when I had been a capo and SS man. Under the mistreatments I was loaded on to a truck and was driven to headquarters in camp. In the headquarters were people who could speak English. I told them my fate and they translated it to the headquarters personnel. After 5 or 6 days I was released by the Americans. The Americans took us by cars over to Oberfischtasch, there I received my travellers pass to Berlin. On July 25 I wanted to go home and I was in a store to pick up some stuff. In this store which I entered there was an American soldier, a man in American uniform. The woman asked me where I wanted to go. I said back home to Berlin. I have been in a concentration camp for eight years. This soldier then asked me which concentration camp I had been in and I told him in Flossenburg. I paid for the things I picked up there, left the store and was about to go to Cham to pick up my registration card. I was in the market square when an American car came along, two men in it, and one of them was the same man who had been in the store. I was arrested because of this witness and was taken to headquarters in Oberfischtasch. I was mistreated there because I denied the things I was supposed to have done. This man stated that he knew me from Flossenburg. I did not know him, but he stated that I had shot to death his uncle and cousin on the evacuation march. I told the Americans to immediately shoot me to death if that statement of this witness was true. I was taken to Weiden and I stayed there four days. From there I was sent to headquarters in Nabburg. I was also mistreated there, beaten, and I was told to admit that I had shot to death those two and if I would not I would be shot at 6 o'clock at night. I never admitted it

(Jakubith - direct)

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because I didn't do it and I was mistreated again. I was taken to the city jail and there were three Poles who had received the sentence of two months for being intoxicated who had been in Flossenburg in former times. These men stated in front of the Americans that I had been a good capo and I had never beaten anyone to death. At any rate this American did not believe those three Poles and went back with me to headquarters. The Americans went out to get two Polish Jews from headquarters. Those two had been in Flossenburg and they had dragged the German capos through the mud and because of that I was jailed. I was then sent to the penitentiary in Straubing. September 14, 1945, I was transferred to Dachau. This man who accused me of having shot to death his uncle and his cousin never appeared here as prosecution witness. I could see that it was revenge and satisfaction on his part. I was questioned here by the prosecutor Berkowitz as a prosecution witness against the SS. He told me to make statements about the SS and that I would not be in the main trial because I asked him that I wanted a defense counsel. That is why I am accused today as a war criminal in the dock.

Q I hand you Prosecution Exhibit Number 63 and ask you if it is your statement?

A Yes.

Q Where did you make that statement?

A Here in Dachau.

Q Who was present at the time you made that statement?

A Prosecutor Berkowitz and then a Pole by the name of Stacher or something like that I do not remember the name.

Q Was anything said to you prior to the time you were asked to make this statement?

A Yes.

Q Explain to the court what was said to you.

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A Mr. Berkowitz told me that I would be released and would never be tried, that I would not need a defense counsel or lawyer and then I was interrogated again by first Prosecutor Shaw.

Q How many times were you interrogated by Colonel Shaw?

A Once.

Q What took place in that interrogation?

A He threatened me. He told me that I was a murderer and that he was asking for my life because I had taken the lives of others. I told him that I was no murderer, that I neither shot anyone to death nor beat anyone to death.

MR. McKAY: Let the record show that the accused Eisbusch has returned to the dock.

QUESTIONS BY MR. McKAY:

Q Was the interrogation that was made by you to Colonel Shaw reduced to writing?

A No, he threw me out.

Q At the time you made this statement, Prosecution Exhibit Number 63, was there ever an American officer present?

A Only Mr. Berkowitz. Later on I swore to these statements.

Q Was there anybody other than Mr. Berkowitz present at the time you made this statement?

A The one I mentioned this Stacker or whatever his name was. He was a Pole.

Q Did you observe anybody present there in an American uniform who had the insignia of an American officer?

A I could not remember that.

Q Do you know when this latter part of this statement which appears on the last page of Prosecution Exhibit Number 63 was put on this statement?

A After I had finished my statement I was sent to another room - not with Berkowitz in it.

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Q Who was present there?

A A Lieutenant - I was sworn in.

Q At the time you were sworn in, were you advised of your rights in any way?

PROSECUTION: I object to that question on the grounds that it is immaterial and irrelevant to the issues of this case. By law he is not required to be advised of any rights.

MR. McKAY: May it please the court,I think it is very material - the circumstances of these statements as to whether they were ever advised or not - so that the court can consider that in giving weight in consideration to the statements made.

PROSECUTION: There is no provisional law which requires that the man be warned of any rights. This matter has been brought to the attention of these courts before.

PRESIDENT: Objection is sustained.

MAJOR LANHAM: I object.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 0945 hours).

(Whereupon the court reconvened at 0955 hours).

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Major Ceding and Mr. Hall who are absent on business for the accused, and all the accused are present with the exception of Buddensieg, Oswalt, Olschewski and Graeber who are sick in the hospital and Fahrmbacher who is consulting with his counsel.

The interests of all those accused who are absent are being taken care of by their counsel.

(Jakubith - direct)

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If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of the Prosecutor is sustained.

PRESIDENT: The court will take a half hour's recess.

(Whereupon the court recessed at 1000 hours).

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter and Mr. Berkowits, who are absent on business of the prosecution; all the personnel of the defense are present, with the exception of Colonel Wilson, Major Oeding and Dr. Wacker, who are absent on business of the accused; all the accused are present, with the exception of Buddensieg, Oswalt, Olschewski and Ornsber, who are sick in the hospital, and Rahrnbauer, who is consulting with his counsel. The interests of those named accused who are absent are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Jakubith, did you make this statement which has been marked Prosecution Exhibit 63 because of the statement that Mr. Berkowits made to you prior to the time that you filled it out.

PROSECUTION: I object to that question, may it please the court, on the ground it calls for a conclusion of this witness and invades the province of the court. The facts may be stated and it is up to the court to drew the conclusion as to whether or not he made it on this basis or not.

MR. MCKAY: If the court please, the question of whether a statement is made because of promises in statements made to an accused are always admissible. That is one of the elements for the credibility of any statement made by an accused to be introduced

before a court and it is not a question of fact that this court must decide. There is the man who made the statement and he is the only man who can tell why he made the statement (indicating).

PRESIDENT: The objection is overruled.

A Yes, I made this statement because Mr. Berkowitz promised me that I would not be brought to the court and that I would be freed.

Q You testified that you did not voluntarily enter the camp police. Will you explain that to the court.

A We were forced to do so. We had to fall in behind the camp and the commander of the camp told us that we had to join the camp police. I would like to mention one case where Commander Koegel made a prisoner Franz Frund take off his uniform. Franz Frund annoyed the Commander Koegel in the officers' house and for that reason Commander Koegel had Franz Frund locked up in the bunker. We We all had to fall in--all the camp police--and Commander Koegel introduced Franz Frund to us. And he said the following words, "What I do with this man I leave up to you" and locked him up in the bunker. We prisoners wanted to start a resistance movement in the camp by means of the camp police. We prisoners who were with the camp police wanted to surround the ammunition warehouse in the officers' quarters by means of the camp police. But unfortunately that didn't succeed because the transport left for Dachau on the 16th of April and we were separated and that was the day it was supposed to take place. The following prisoners knew about this fifth column: Erber, Kittel, a former Colonel of the SS Albrecht, Stalla, Alewis, and Ginschel, who is a fellow accused in the dock here. And we wanted to tell General Pavlov, who was there in the camp, about it. A prisoner, Karl Neil, betrayed it, and for that reason they kept sharper guard on us and we weren't able to carry out our plans.

Q During the time that you were in Flossenburg, did you ever

come in contact with a fellow prisoner by the name of Retalaff?

A Yes.

Q What was the nature of your acquaintence with Retalaff in the camp?

A I didn't have any relationship with him in the camp, but in the quarry.

Q Will you explain what your relations were with Retalaff in the quarry?

A Retalaff's place of work in the quarry was about 200 meters distant from my place of work. His place of work was between the stone cutters halls 3 and 5. He had about 20 prisoners under him in the detail—Russians. I saw him work daily with the prisoners. He himself worked all day long with the prisoners. The heavy stones he would have loaded by means of a crane onto a car with four wheels and take them into the hall. I saw him working there daily and I was in the little room with him when he was together there with the prisoners when they didn't have any work. When the prisoners didn't work he was always with them in this little room next to the stove and drank coffee with them or slept. I never saw him beat anyone. All the prisoners could understand him because he could speak Russian. And he always called their attention to the work. He probably scolded some but he never struck anyone. And he himself usually lent a hand to the work. He was never a foreman. He merely had a small group of 20 prisoners to supervise. The capo who was in charge of Retalaff was in Department 3.

I would like to say that 80 prisoners of Jewish-Polish nationality came from his department into my detail. I had a Russian capo with me—a Russian prisoner of war—I don't know his name any more. He was supposed to carry rails into the locksmith shop with the prisoners. The Russian beat down a Jew—struck him

with a key which he was carrying in his hand. Retalaff came by this way and he called this Russian prisoner of war to account. The Russian prisoner of war attacked Retalaff with the rail which he was carrying in his hand. Retalaff reported him. The chief capo Witmann and I came to him and Retalaff then explained the situation to Witmann. Retalaff demanded that the Jews no longer work under this Russian prisoner of war and that the Jews be sent to his own hall. I had the Jews taken into the hall and I relieved the Russian prisoner of war of his duties and then he had to work.

Q Did you know what Retalaff's reputation for treatment of prisoners was in the camp during the time you were there?

A He had a very good reputaton.

Q Do you know whatever became of Retalaff?

A I experienced the following incident in March 1945: Retalaff was working in the work detail Scharlach. He constantly had unpleasant incidents from the side of the prisoners who worked with him. They constantly brought this methyl alcohol into the camp without his knowing about it. One day I came back into the camp from my work outfit and I heard this affair. Retalaff, the Little Jocky, and another man, a Russian, were there together. I don't know the name of this man whom we called the Little Jocky any more. Retalaff and the other four came out of the bunker and were sent to Block 2, where I was. And Retalaff explained this incident to me. I couldn't recognise this man again, comparing him with former times. He had holes in his head; he was beaten, bloody, green and blue; he couldn't speak; he couldn't walk; and the others the same way.

Q Who was that.that was beaten and bloody and black and blue and you couldn't recognise him?

A Retalaff and the others, and he told me that when the Russian was receiving his blows in the clerk's office the key to the

material warehouse fell out of his pocket and the Russian said at that time that Retzlaff didn't have anything to do with the whole affair. Retzlaff was mistreated merely because he would not betray who it was who brought the methyl alcohol into the camp and because several members of the detail were involved in it. And Retzlaff didn't know anything at all about the whole affair. They called him to account because he had the key. They then transferred this Little Jocky to Block 7 and at night he was driven into the chain of guards—the wires—and was shot to death likewise. He also had had nothing to do with the affair; the only one was the Russian, and I don't know that name.

Q Have you ever seen Retzlaff since you left Flossenburg?

A No.

Q When is the last time you saw Retzlaff?

A I saw him here in Dachau.

Q Do you know where he is at the present time?

A Here in the dock.

Q Will you point him out for the court?

A No. 37 (indicating).

MR. MCKAY: Let the record show that the witness has identified No. 37 as Retzlaff.

Q During the time that you lived in Block 1 did you ever come in contact with a prisoner by the name of Ginschel?

A I came in contact with a prisoner by the name of Ginschel.

Q What was the nature of your contact with a prisoner named Ginschel?

A He was apportioned to me in the month of May 1944—I don't know the exact date. He was in my outfit for three days. Because he was a helpless man and couldn't do any work at all, together with Schubert who agreed to it, we sent him back to the camp. I gave him to the transport outfit of Mauer because they only had to do light work there and actually all they did was take walks. Then I went to

Schubert, had him relieved of his duties in the quarry, and had him taken back to the camp.

Q Did you ever see Ginschel after that in the camp?

A Yes.

Q What were the occasions of your seeing him in the camp?

A Ih the years '44 and '45 I was quartered in Block 2 and at various times went to Block 1 and there I saw Ginschel. I asked him what he was doing there. He told me that he was doing orderly service there.

Q Did you ever see any incidents of any kind involving Ginschel while you knew him in Block 1 and while you were living in Blocks 1 and 2?

A Yes.

Q Describe what you saw.

A I saw that Ginschel was distributing food in Block 1 from November until March. He had to dispense food for the outfits which came back into the camp in the evening after roll call. And then he had to give out the food which was left over in Block 1. He had to bring it to the juvenile block, Block 19. And I saw him giving out food at various times. When the outfits came in after the roll call to get their food there were always 60 or 70 extra men among them who didn't belong in these details and they attempted to get food or else to dip their bowls into the kettles. They constantly tried to knock him down with the kettle, and since he was constantly attacked by the Russians, Poles, French and Czechs, he started giving out food in the corridor, but I never saw him hit anyone with the ladle that he collapsed in a bloody mess.

Q Did you see him ever use the ladle to hit anybody?

A No.

Q Proceed.

A He always defended himself and held off the prisoners with

his hand. And there was a Russian prisoner of war who was in Block 1 who assisted in the orderly service there. His name is Nisga Schernoff and he kept these people off of Ginschel. Schernoff spoke to the prisoners in Russian and told them that they should go back and fall in in the rear just as everyone else. And Ginschel never once used the ladle to strike anyone with it. If Ginschel had struck anyone with the ladle so that the man had died as a result of it the clerk's office would have found out about it, or at least the permanent personalities who were quartered in Block 1, and no such incident is known to me.

Ginschel had to take care of the orderly service in Block 1 and to clean up the dormitory. He had to get food from the kitchen to bring it to Block 1 and for the prisoners in Block 1 he had to go and get the commodities from the canteen--beer, cigarettes, or whatever it was. I went to the canteen at various times in order to pick up my beer and cigarettes. Nisga Schernoff, the Russian prisoner of war, was always accompanying him. The two of them would pick up the box of beer and carry it to Block 1 together. Since the black market was located there and the prisoners would take the canteen and attack it, the Russian prisoner of war would always talk to them in Russian and tell them to clear out, but no one was ever beaten there. When the Russian prisoner of war was telling them to make room and they wouldn't do it, the Russian prisoner of war would push back the people with his fists.

Q Do you know whatever became of Ginschel?

A He stayed in Block 1. If he had done anything culpable, such as beating anyone to death, if he had committed homocide he would have been transferred out of Block 1. I would like to mention that he had constant troubles with the camp eldest Uhl, Saba, and the barber who had the orderly service, Reinhardt Hoffmann. They constantly told

Ginschel to tell the prisoners who gathered from Block 1 to clear out, byt they themselves didn't do it.

Q Do you know where Ginschel is now?

A Here in the dock.

Q Will you point him out to the court.

A (Indicating).

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 15 as Ginschel.

Q During the time that you were in Flossenburg did you ever run into a prisoner by the name of Walter Neye?

A Yes.

Q What was the nature of your acquaintance with Walter Neye?

A In Block 7.

Q Will you describe what you saw of Neye in Block 7?

A I often visited prisoners in Block 7. Among others I visited Karl Schunock, who was the assistant capo with me in the quarry, and there I learned to know Walter Neye.

Q Did you have an opportunity to see how Neye treated the prisoners?

A Yes.

Q Describe what you saw with regard to Neye's treatment of prisoners.

A I came to the block at various times. I would see Walter Neye sitting at a table with foreign prisoners, talking to them, and would cook food with them and would eat the food together with them. I also saw at various times that in February he carried out delousing steps. He carried out a delousing process three times a week. And I saw that at various times he warned prisoners to let themselves be deloused; otherwise they would drag the other prisoners into the same trouble—the same torture. He ran all over the place after the

prisoners—all over the dormitory—and they would hide from him because they didn't want to be delcused.

I never saw him beat anyone when anyone was being delcused. He did shout at them. Sometimes he would say "Come here, you son-of-a-bitch" but I never saw him beat anyone. Walter Neye had a good reputation in Block 7 because he constantly sat at the same table with Russians and Poles.

Q Do you know where Walter Neye is now?

A Here in the dock.

Q Will you point him out to the court.

A Up there to the right—No. 30 (indicating).

MR. MCKAY: Let the record show the witness has identified the accused wearing No. 30 as Walter Neye.

Q You said you lived in Block 4 for awhile in Flossenburg, is that correct?

A Not I.

Q Did you ever knew a prisoner in Flossenburg by the name of Heinisch?

A Yes.

Q Where did you know Heinisch?

A He was quartered in Block 4 - Wing B.

Q What was the nature of your acquaintence with Heinisch in Block 4?

A I visited a Czech there whose name was Adolf Furchtegott and I came into contact with Heinisch in that way. He was sitting at a small table behind the clerk and was usually reading a book. He kept quite to himself or else he had Russians and Poles near him. And I know about Heinisch because he sent people to me from his department in the delta hall. But I never heard that Heinisch kicked or beat or let any prisoners drown in the washroom. Heinisch

had a very good reputation in Block 4. Everybody knew about it because he sat quietly in the corner and read a book, or else he talked to Poles and Russians.

Q Do you know where Heinisch is now?

A Yes.

Q Where is he?

A Here in the dock.

Q Will you point Heinisch out to the court?

A No. 20.

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 20 as Heinisch.

Q Is there anything else now that you want the court to know?

A I would like to call the court's attention to a prisoner who is now here in Dachau.

Q Go ahead.

A I would like to mention Kautsch.

Q What do you know about Kautsch?

A He attempts to influence all the defense witnesses here who are supposed to appear in our favor, and tries to change their testimony against us.

Q How did you ever find that out?

A A fellow accused told me about it.

Q Did you ever talk to any of the witnesses who had talked to him?

A Somebody heard him telling someone something.

Q But all of your knowledge of it is hearsay?

A Yes.

Q Did any witness ever tell you that he had talked to Kautsch?

A No, one of us accused.

Q Well, who told you that?

A Lipinski.

Q Is there anything else now you want to tell this court?

A Just as he worked hand in hand with the SS in former times in the camp, now he is working hand in hand with the prosecution. In the year 1941 three prisoners were hanged by the neck because Kautsch incited that. And he got cigarettes for his action.

Q When you speak of Kautsch, who do you mean?

A The one who was here in the witness chair.

Q The man who testified for the prosecution?

A Yes, here in the courtroom. There is an accused here who knows the details of this case which I just described in regard to the hangings.

Q Is there anything else you want to tell this court?

A I would like to have Dr. Gisecke come back again. I constantly helped this man. He constantly asked me for window glass for his block. Sick prisoners were staying in this block. I gave him that without asking anything in return. I was amazed when he appeared here as a prosecution witness against me. I merely wanted him as a defense witness. He threw it in my face that I had control of the punishment company and that the mortality rate in my detail was the same as it was in other details. And that is not true.

Q Are you now ready to answer the questions of the prosecutor on cross-examination?

A Yes.

MR. MCKAY: You may cross-examine.

PRESIDENT: Just a moment. Dr. Wacker, do you have any questions?

DR. WACKER: Yes.

QUESTIONS BY DR. WACKER:

Q Mr. Jakubith, I am now coming back to the remarks which you made in regard to the case of Retzlaff. Did I understand you

correctly when you said that by the occasion of this incident someone was driven into the wires and was shot to death?

A Yes.

Q When was that?

A In March '45.

Q Was that a prisoner who was driven into the wires?

A Yes.

Q Do you know who it was?

A The one who drove him into the wires?

Q No, the one who was shot to death.

A The Little Jocky.

Q Was that a German?

A Yes.

DR. WACKER: Thank you.

PRESIDENT: You may cross-examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Have you ever seen this man Kantsch?

A Yes.

Q You say he is working hand in hand with the prosecution, is that correct?

A Yes.

Q Have you seen him at work?

A Because he is constantly running around there.

Q Have you seen him at work?

A Because he is constantly looking into books.

Q Will you answer my question, please. Have you seen him at work?

A I saw him with my own eyes as he spoke to a witness outside.

Q What witness was it that he spoke to?

A With this witness whom I believe appeared as a prosecution witness against Mathei.

Q What was his name?

A I don't know that.

Q What did he look like?

A He was a German.

Q What did he look like—describe his appearance.

A A tall man—black hair.

Q What was it that he said about Mathei?

A He said good things. It was a defense witness which appeared for him.

Q And you testified that this man Kautsch is trying to influence testimony against the accused, is that correct?

A Yes.

Q And how do you know that?

A The accused Lipinski told me.

Q Do you know any of that of your own knowledge?

A No, I know it from Lipinski, but I also saw him with my own eyes as he spoke to the defense witness outside.

Q And you concluded from the fact that you saw him speaking with the defense witness that he is trying to influence the testimony of that witness against the accused, is that correct?

A Yes.

Q Prosecution Exhibit 63 was written by you in your own handwriting, wasn't it?

A Yes.

Q And you swore to the truthfulness of that, did you not?

A Yes.

Q It is the truth, isn't it?

A Yes.

Q And you made that statement because it was the truth, did you not?

A Because it is the truth.

Q And you did not make it because Berkowits promised you that you would not be brought before the court but because it was the truth, isn't that correct?

MR. MCKAY: The question is objected to as being argumentative in form.

PRESIDENT: Read the question, please, reporter.

(Thereupon the reporter read the last question.)

PRESIDENT: The objection is overruled.

A Because it was the truth and because he promised me that I would be released.

Q Now, when you left Flossenburg you did go in the direction of Roting, did you not, on the evacuation march?

A Yes.

Q And there were Frenchmen in that transport, were there not?

A I don't know.

Q You did shoot an old man and his son, did you not?

A Never.

Q Do you know a man by the name of Adam Niedzielski?

A The name is unknown to me.

Q There were approximately 176 capos who were taken into the camp police, were there not?

A They weren't only capos; they were all kinds of people.

Q How many of them were capos?

A I don't know.

Q What is your best judgment?

A I can't say.

Q How many capos were in the camp in March 1945?

A I never bothered about capos in the camp.

Q You were a capo, were you not?

A I was one, yes.

Q And you knew w o the capos were, did you not?

A Not all.

Q How many did you know?

A The ones who worked with me.

Q And those were the only capos that you knew, is that correct?

A And the chief capo.

Q And who was that?

A Witmann.

Q How many capos worked with you?

A You mean in my detail?

Q That worked with you.

A In my detail there were three ca os.

Q So that all the capos that you knew in Flossenburg in March 1945 were four capos, is that correct?

A I don't understand the qu stion.

PROSECUTION: Repeat it to him, please.

(Thereupon the interpreter repeated the last question.)

A Those who worked with me?

Q Answer my question, please.

A No, I knew more than that.

Q All right, who else did you know?

A I knew Maurer from the transport detail, Niehof, Paul Tormer. I didn't know any capo in the camp.

Q So the ones that you have named are all the capos that you know in Flossenburg in March 1945, is that correct?

A Yes.

Q Was Walter Neye a capo?

A No.

Q Was Kathoi a capo?

A No.

Q Was Lipinski a capo?

A Yes.

Q Did you know Lipinski?

A No.

Q Did you know Hauser?

A Yes.

MR. MCKAY: That is objected to as going beyond the scope of cross-examination.

PROSECUTION: That certainly is not going beyond the scope of cross-examination at all. I have a perfect right to inquire into the knowledge of this man with respect to the capos and who made up this detail which he says that he joined involuntarily that was called the camp police. Anything going to impeach this man with respect to credibility is perfectly admissible. He stated that he only knew those capos that he has named and I have a perfect right to go into the matter and show who he does, in fact, know.

PRESIDENT: Objection overruled.

A I saw other capos cursory but I never came in contact with them.

Q Just answer my question, please.

A I would like the question again.

PRESIDENT: Read it to him, please.

(Whereupon the reporter read the last question.)

Q Hauser was a capo, wasn't he?

A Yes, he brought me people.

Q Now, how many other capos do you know that you haven't told the court about?

A I knew others by sight but I didn't know them by name because

I never came into contact with them.

Q Did you know Buttner?

A Buttner?

Q Yes.

A No.

Q Did you know Gieselman?

A As block eldest.

Q Are there any more capos over in that dock that you knew while you were in Flossenburg that you haven't named to the court?

MR. MCKAY: If it please the court, that is objected to as going beyond the scope of cross-examination. The prosecutor is trying to force this accused to testify against other men and I think it is grossly unfair.

PROSECUTION: I have a perfect right, may it please the court, to go into any matters that will test this witness' credibility, his powers of recollection, remembrance, his powers of narration. He has stated in t is court that he only knew such and such capos and I have a perfect right to show that he is not telling the turth and so far as making him testify against other accused there in the dock it comes within the purview of the cross-examination and it is perfectly proper. At the present time I fail to see how this particular question can implicate the other accused.

PRESIDENT: Objection overruled. Read the qustion.

(Whereupon the reporter read the last question.)

A No.

Q Then you do not know any of the other capos over in that dock as far back as when you were in Flossenburg in March 1945?

A There was only one capo with me who was wearing a sling—a cloth insignia—on his arm.

Q But none of the capos in that dock were known to you in

March 1945 other than the ones that you have already named to the court, is that correct?

A None except Olschewski.

Q All right, are there any more now besides the ones that you have named up to this time?

A No.

Q You are sure about that?

A Yes.

Q Isn't it a fact that you testified on direct-examination that you never heard of any case in Flossenburg where a prisoner was beaten so badly that he died as a result of it?

A I experienced one case. I already describe that to the court.

Q Just answer the question as propounded to you. Did you make that statement on direct-examination yesterday?

A Yes.

Q Is that statement true or false?

A Yes, it is true.

Q It is true that you never heard of any case in Flossenburg where a prisoner was beaten so badly that he died as a result?

A I explained one case.

Q And what was that one case?

A The case of Niehof.

Q What was thatcase?

A I explained that next to the coal stove in the quarry, together with Sergeant Kubler, he beat a prisoner down to the ground. And they wanted to shove this prisoner off to my detail at Maurer, but the prisoner died in the hospital. And Maurer made a report in the quarry and sent it to the clerk's office. Niehof was mistreated by the block eldest Deitrich because he had beaten this prisoner and the

prisoner had later died in the hospital. Niehof was reported and tried to drag me into the affair. Captain Fritz of the SS invited me up to see him and he read a notice to me and said that I had beaten this prisoner. I denied it. He asked me who had done it and I didn't betray him and both I and Niehof got twenty-five blows with a stick in the clerk's office.

Q All right, how many prisoners died in the quarry in 1942?

A Nobody in my detail.

Q You were sitting in the dock yesterday, were you not?

A Yes.

Q Did you hear a witness testify that seven or eight men died each day in the quarry in 1942?

A But I wasn't any capo then.

Q I didn't ask you that. Answer my question.

A Yes.

Q Is that true or false?

MR. MURRAY: I object to that form of question as pure argument and nothing but argument. Is it true or false? He is taking issue with the statement, in other words, calling him a liar in his face.

PROSECUTION: May it please the court, I would like to get the book again and read what constitutes an argumentative question to obviate these continuous objections on grounds which are obviously not applicable to the question at all. I have a perfect right to ask the witness whether or not he heard another witness make a statement and if he says he did, ask him whether or not that statement was true or false. There is nothing in the world argumentative about it.

PRESIDENT: The objection is overruled.

Q Answer the question.

A I know of individual cases but I do not know of seven or eight a day.

Q Well, is that statement true or false?

A Yes.

Q Yes, what?

A It is true.

Q And how were these prisoners killed?

A In 1942 they ran into the wire.

Q And why were they driven into the wire?

A Usually they went alone; usually because of the SS.

Q And what was the occasion when they went because of the SS?

A It was the dictatorial pressure of the SS.

Q Expressed in what form?

A There was chicanery.

Q And what was the chicanery?

A If a prisoner called anyone's attention because he was lazy he would be beaten.

Q By whom?

A The SS.

Q And what members of the SS did that?

A Deaths head unit.

Q And what positions did these members of the Deaths head unit occupy?

A I don't know.

Q Were they guards?

A Detail leaders.

Q All right, now go ahead and tell the court the occasions when the SS, the commando leaders, drove these prisoners into the wire because of chicanery.

A Ever since Flossenburg existed since 1938 people were daily mistreated by the SS, were driven to desperation and were forced into the wire and were there shot to death by the guards.

Q And were the SS the only people that mistreated the prisoners—

MR. MCKAY: I move to strike the previous answer for the reason that it is not shown to be relevant or material to the issues of this case.

PROSECUTION: May it please the court, he said ever since it was founded in 1938. That includes all the period of time from 1938 down to and including the time that the camp closed in 1945.

PRESIDENT: Repeat the question, please.

(Whereupon the reporter read as follows:

"All right, now go ahead and tell the court the occasions when the SS, the commando leaders, drove these prisoners into the wire because of chicanery."

PRESIDENT: The motion to strike on the part of the defense counsel Mr. McKay is sustained. If the prosecutor desires to rephrase his question, the court will give it further consideration.

Q From 1942 down to and includin the termination of the camp in 1945 were prisoners daily mistreated to the extent that they were driven into the wire fence and shot?

A No.

Q When did it stop?

A In 1943.

Q All right, then, from 1942 up to the year 1943 did that condition exist?

A In 1942 individual cases still occurred but not in '43.

Q Well, what did you mean when you stated that from 1938 people were mistreated so that they were driven into the wire fence?

MR. MCKAY: The question is objected to because it calls for an answer which shows that it has no bearing on any issues of this case—from 1938. The issue in this case starts on June 1, 1942. Furthermore, the question refers to matters which have now been

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stricken from the record.

PRESIDENT: The objection of defense counsel, Mr. McKay, is sustained.

Q In 1942 you have stated that it is true that seven or eight prisoners were killed daily in the quarry, is that not correct?

A I didn't say that eight people died daily. I said that I knew of three incidents.

Q Well, didn't you state that the statement that was made by another witness was the truth when he stated that seven or eight persons died daily in the quarry?

A I answered to that that I knew of three cases.

Q Then I will ask you to answer that question now, is it true or false?

MR. MCKAY: The question is objected to as repetitious.

PRESIDENT: Objection overruled.

A I mentioned three cases.

PROSECUTION: I will ask the court to direct the witness to answer the question that has been propounded to him and I move to strike his answer on the ground it is not responsive to the question.

PRESIDENT: The motion to strike is sustained and the witness will answer the question.

A I already mentioned before three cases.

PRESIDENT: Repeat the question to him.

PROSECUTION: May it please the court, I would like to reword it so there won't be any question about ambiguity at all.

PRESIDENT: Go ahead.

Q You heard a witness testify in this court yesterday, did you not, that seven or eight persons were killed daily in the quarry in the year 1942"

A Yes, I heard it.

(Unkobith-Cross)

Q And is that statement true or false?

A I only know of three cases from those eight.

PROSECUTION: I move to strike the answer and ask that the witness be directed to answer the question.

MR. MCKAY: If it please the court, that answer was responsive. The man can only testify from his own knowledge. Now, this matter of confusion comes up through translation. It is difficult to put these direct questions in the language.

PROSECUTION: I don't know what Mr. McKay's knowledge of German is but I think that this trial has proceeded now since the 12th of June without too much difficulty in translation and it is apparent that when the prosecution's witnesses were on the stand that the questions that were propounded by the defense counsel on cross-examination, the witnesses understood them and we had the same interpreters then as we have now. And I ask that the court instruct this witness to answer the question that has been propounded to him. He knows, may it please the court, whether it is true or false.

PRESIDENT: The motion to strike is sustained. The witness is cautioned that if he doesn't know, to so state, or give a definite answer, whether it is true or whether it isn't true—or state definitely that you don't know. Reporter, repeat the question.

(Thereupon the reporter read the last question.)

A That is not true. I would like to ask whether this was supposed to have happened daily.

Q Did you understand the question?

A No.

PROSECUTION: Read it to him again.

(Thereupon the interpreter repeated the question.)

A I heard that, but it isn't true.

Q All right, how many did die daily in the year 1942 in the quarry?

A I already explained I know of three incidents.

Q Three incidents that took place daily in the quarry?

A No.

Q Well, how many people were killed daily in the quarry in Flossenburg in the year 1942?

A I didn't see that.

Q You were there in the quarry during 1942, were you not?

A I was in the stone quarry hall.

Q And where was that located?

A That was a distance away from the quarry—a long distance away.

Q How far was it from the quarry?

A The stone cutters halls were located at various positions from the quarries.

Q And where was the quarry located with respect to the stone cutters hall?

A Usually the stone cutters hall would be located three or four hundred meters distant from a quarry.

Q How many stone cutters halls were there in that quarry?

A Two.

Q And how big was the quarry?

A There were various quarries.

Q How big was the quarry in which you worked in 1942?

A I wasn't in the quarry in '42.

Q And you tell this court that the stone cutters hall in which you worked was not located in the quarry in Flossenburg?

A The hall in which I worked wasn't really located in the quarry but was still two or three hundred meters distant from the

quarry itself.

Q So it was back in the quarry.

A In the terrain around the quarry.

Q And you had an opportunity to observe what went on in the quarry, didn't you?

A Not always.

Q When didn't you have an occasion to observe what went on in the quarry?

A We prisoners were not allowed to leave the stone cutters hall without permission. We had to get a special pass when we would go to the clerk's office in the quarry or to the latrine. And we had to have a good reason before we left the hall.

Q Did Rochel have charge of the quarry?

A Rochel had various quarries under his command.

Q Did he have the quarry that was adjacent to the stone cutters house in which you worked?

A In the year 1942 he had part of quarry 1 and quarry 2.

Q And what quarry did you work adjacent to?

A In '42 I worked at the end in hall 6 and that belonged to quarry 3.

Q You were Rochel's assistant, were you not, in 1942?

A Never.

Q Who was your capo in 1942?

A The name of my capo in the stone cutters hall in '42 was Brunnemund.

Q Did you ever work for Rochel?

A In January '43.

Q And was your position changed in the quarry in the year 1943 from what it was in 1942?

(Jakubith-Cross)

A Yes.

Q And what were your duties in 1942?

A I didn't have any duties in '42. It was in '43 that I had duties.

Q What did you do in 1942?

A I already said yesterday that until November 1942 I was a stone cutter.

Q And what did you do in November 1942?

A Dr. Schnabel had me relieved of my duties as stone cutter.

Q What did you do in November 1942?

A Nothing.

Q And how long did you continue to do nothing in Flossenburg?

A Until one day when an officer of the work commitment office came to me—I don't know what his name was—and said I had to go back into the quarry as a stone cutter.

Q What day was that?

A Just before Christmas 1942.

Q And after that time did you continue to work in the same stone cutters hall that you had worked in prior to the time that you did nothing?

A No.

PRESIDENT: The court will adjourn until one-thirty.

(Whereupon the court recessed at 1200 hours.)

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CAMP DACHAU, GERMANY

25 SEPTEMBER 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If it please the court, let the record show that all the personnel of the court are present, all of the personnel of the prosecution are present, all of the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding, and Dr. Engelhorn who are absent on business of the accused, all of the accused are present with the exception of Buddensieg, Oswalt, Olschewski, who are sick, and Fahrnbauer who is on business of his counsel. The interests of those named accused who are absent are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of cross-examination.

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continuing):

Q Now, Jakubith, tell the court how many people died in the quarry in the year 1942?

A I don't know that.

Q Who have you talked to about this case since you testified before the recess?

A With nobody. I only know about the three incidents which I described this morning.

Q Do you mean three people only died that you know of?

A I only saw the three who were shot to death. I didn't see anyone else.

Q How many have you heard died in the quarry in 1942?

A I don't put any faith in hearsay.

Q You answer my question.

A No.

Q During the year 1943 how many people died in the quarry that you know of?

A I didn't see anybody.

Q How many did you hear died in the quarry in Flossenburg in the year 1943?

A I don't know that.

Q What is your best judgment about it?

A I only saw Rochel at the wire twice with the prisoner.

Q And what did Rochel do at the wire twice with the prisoner?

A He chased the prisoner into the wire.

Q With what did he chase a prisoner into the wire?

A He pushed him into it.

Q Did he push both of them into the wire?

A Yes.

Q And where were you at that time?

A I went past the spot and I saw it.

Q Did you report Rochel for that misconduct?

A I didn't want to report him because the same thing would have happened to me.

Q Wasn't it forbidden for capos to beat the prisoners at Flossenburg?

A I don't know anything about that.

Q Do you mean you never heard of that at all?

A I didn't hear about it either.

Q Were you given any instructions when you became a capo?

A I was made a foreman exclusively on the basis of my knowledge as a stone-cutter.

Q You answer my question.

PROSECUTION: I move to strike that answer, may it please the court, on the grounds it's not responsive to the question.

PRESIDENT: Please read the answer.

(Whereupon the answer was read by the reporter.)

PRESIDENT: The motion of the prosecution is sustained.

A No.

Q Who was it that appointed you capo?

A Top Sergeant Fischer.

Q How many prisoners died in the stone quarry in the year 1944?

A I don't know.

Q What is your best judgment about it?

A I don't know.

Q Were there many or few?

A I don't know.

Q You were there in the quarry during the year 1944 were you not?

A I was in the quarry but I didn't hear of any cases of death.

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Q They worked prisoners who were too sick to work in the stone quarry in the year 1942 did they not?

A I don't know anything about that.

Q They worked prisoners who were too ill to work in the year 1943 did they not?

A No.

Q They did the same thing in the year 1944 did they not

A No.

Q Is it not a fact that on the average approximately 20 prisoners a day who were suffering from phlegmone and other illnesses were worked in the quarry and at the conclusion of the day they were so ill that they were taken to the hospital where they subsequently died

A Who caused them to die?

Q You tell the court who caused them to die.

A I'm asking you through whom?

Q You answer my question.

PRESIDENT: The witness is cautioned that he will not ask the prosecutor any questions. You answer the questions that are put to you. Just answer the questions in the best way that you can and if you don't know, so state.

Q Who caused them to die?

A I don't know.

Q They did die did they not

A I didn't see any dead man in the quarry.

Q Well, you do know, do you not, of prisoners who were so ill that they weren't able to work and were thereafter made to work and as a result of that they died? You know that do you not?

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A No.

Q That never took place in the quarry the whole time you were there, is that correct?

A I would like to give the prosecutor an explanation in regard to that.

Q Just answer my question is all I want you to do.

A I didn't see any.

Q Did you hear of it

A No.

Q I hand you statement marked Prosecution's Exhibit No. 63 which is the statement that you made in your own handwriting, is that not correct?

A Yes.

And I'll ask you to read to the court beginning on page 16 of your statement "In the year 1942", beginning with that — read to the court.

A I would like to beg the court to be allowed to give an explanation in regard to that.

PRESIDENT: The court will give you an opportunity to make your explanation later on but right at the present time you answer the questions of the prosecutor. You will be given that opportunity if you see fit to make an explanation.

A (Reading) In the year 1942 the prisoners had to eat out-of-doors at noon in the quarry and they weren't allowed in the hall. When it rained the prisoners had to work out-of-doors, it didn't matter whether we were wet to our skins. And on the next day we had to continue working with our wet clothes. On these occasions when we marched back to the camp prisoners had to be carried who couldn't walk any more. Some of them would be weak, some of them would have

phlegmone and others would have water on their feet and the next morning they would die.

Q Did you make that statement under oath?

A Yes, but that's not my fault. That doesn't apply to me.

Q Did you understand the questions that were put to you with respect to whether or not prisoners died that had been worked in the quarry who were ill?

A Nobody died in the quarry. They only died in the hospital.

Q So as a matter of fact then sick prisoners were worked in the quarry that were not able to work and later on they died as a result of that, is that not true in the year 1942?

A Yes, but not because of me.

Q 20 a day, is that not correct?

A Not every day but whether they all died I don't know.

Q You stated that they all died didn't you?

A Yes, but not every day.

Q And you stated that everything that you said there in that statement marked Prosecution's Exhibit No. 63 was true did you not?

A Yes, but they weren't all exclusively from the quarry.

Q Were they from the stone masons' hall also?

A Yes.

Q And you worked there did you not?

A In 1942 I worked there as a stone-cutter.

Q How many prisoners died in the same manner during the year 1943?

A Nobody in my detail.

Q I didn't ask you that. You answer my question.

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PROSECUTION: I move to strike the answer, may it please the court as not being responsive to the question.

PRESIDENT: Repeat the question and answer.

(Whereupon the question and answer were read by the reporter.)

PRESIDENT: The motion to strike is sustained.

Q Now, answer my question.

A I saw some people being carried into the camp who were sick. For the most part the prisoners were responsible for the fact that they were sick. I mentioned that, yes -- prisoners themselves were responsible for that.

Q You just answer my question as to how many in the year 1943?

A I didn't see any. I didn't see any dead man in the quarry.

Q How many died because they were too weak to work and had been required to work?

MR. HALL: If the court please, I object to any question which seeks an answer concerning the cause of death of any of these prisoners. This witness has not been qualified to give such an answer.

PRESIDENT: Mr. Hall, did your objection refer to the last question put by the prosecutor?

MR. HALL: Yes, sir.

PRESIDENT: Repeat the last question.

(Whereupon the question was read by the reporter.)

PROSECUTION: May it please the court, I think the objection of Mr. Hall is out of order. He does not represent Jakubith and has no authority whatsoever to interpose an objection in behalf of Jakubith.

Ta 467-9/25-DHC-9

MR. McKAY: If it please the court, throughout this entire trial there has always been one single thread that goes through it, that is the theory of a common design with all of these accused and any statement which goes to the death of prisoners not only involves Jakubith or the accused I represent but it involves every accused that's here and any attorney sitting beside me has the right to protect the interests of his client by proper objection.

PROSECUTION: May it please the court, I was under the impression yesterday that the authority of these men was limited. When I obtained the permission from one counsel who represented the defendants I assumed that he had authority to act and it was the ruling of the court yesterday that the authority of these various counsel are limited to their own accused and can only speak in behalf of their own accused.

MR. McKAY: If it please the court, the duty of each counsel sitting at this table is to be constantly alert to any question that may involve or implicate any of his particular accused. This whole process of cross-examination at this point is simply intended not to implicate Jakubith but to implicate other accused and Mr. Hall has the right to protect those accused.

PRESIDENT: The court feels that Mr. Hall was not out of order, Mr. Prosecutor, due to the fact that Mr. Hall is representing Dr. Schmitz, No. 40. The court feels that due to that fact Mr. Hall was within his rights in making the objection. The objection of Mr. Hall is sustained.

PROSECUTION: Read the last question please.

(Thereupon the question was read by the reporter.)

Ta 467-9/25-DHC-10

QUESTIONS BY PROSECUTION (Continuing):

Q In the year 1943, Jakubith, tell the court how many prisoners were carried out of the quarry because they were too weak to work?

MR. HALL: I make the same objection. I do not see that this witness is qualified to give a conclusion as to the physical condition or the weakness of the various prisoners. They may have been carried out for many diverse reasons all of which are closely allied with medical factors.

PROSECUTION: Now, may it please the court, that is a question which does not call for medical knowledge at all. A layman can certainly testify as to whether a man is too weak to move from here to the door or not. If you see a man faint and fall down in his tracks you certainly have a right to testify as to what his physical condition was as to whether he was too weak to stand up or not.

PRESIDENT: Court will be closed.

(Whereupon the court was closed at 1400 hours.)

(Whereupon the court was opened at 1410 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: If it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Mr. Berkowitz who is absent on business for the prosecution, all of the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding and Dr. Englehorn who are absent on business of the accused, and all of the accused are present with the exception of Buddensieg, Oswalt, Olschewski, who are sick, and Fahrnbauer who is on

business of his counsel. The interests of those named accused are being taken care of by their counsel.

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If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

The witness is reminded that he is still under oath.

PRESIDENT: The objection of Mr. Hall is overruled.

PROSECUTION: Will you read the question please?

(Whereupon the question was read by the reporter.)

A I don't know.

Q What is your best judgment?

A There were various ones in '43 who got sick and they were immediately carried from the work into the hospital.

Q And approximately how many each day?

A That varied a great deal.

Q What was the greatest number that you recall?

A Anyone who got sick in my detail and had a fever I would immediately bring to the clerk's office and from there they would go directly to the hospital. I had two a day, but not every day — or else they were sent to me already sick from the camp.

Q How many were sent to you already sick from the camp?

MR. HALL: I object to the question and I move that the previous answer be stricken as purely a conclusion of the witness concerning whether or not these people were sick.

PRESIDENT: The motion to strike is denied. The objection is overruled.

A Daily, but not every day, two people would come to me on my detail and say to me, "Capo, I am sick". I turned them over to the campeldest Uhl and after two hours they had come back into the quarry already.

Ta 467-9/25-DMC-12

Q And were they put to work after they returned to the quarry?

A You mean those from my detail?

Q From any detail?

A I can only give you information about my detail.

Q All right, were they put back to work from your detail?

A I didn't put them to work.

Q Who put them to work?

A Nobody.

What did they do?

A They stood next to the stove in the odds and ends room.

Q And was there an SS man supervising the work at that time?

A Yes.

Q What was his name?

A If you are talking about '43 that's Top Sergeant Fischer.

Q And did Fischer have any objection to the procedure that you followed?

A He told me I should take them to the clerk's office.

Q And did you thereafter return them to the clerk's office?

A Yes.

Q And how long would they remain there?

A I don't know. They went from there to the camp through Lesak.

Q And how many were ill when they came to work in the year 1944?

Ta 467-9/25-DHO-13

A There were many people in my detail who were undernourished. I constantly asked that these sick people in my detail be exchanged for healthy people. I often wrote down the numbers of sick people in my detail, took the numbers into the clerk's office to my fellow-accused Schubert here, and asked him that the people be removed from my detail and that they be taken to the camp. That happened.

Q Will you please answer the question?

A No.

Q Do you mean you don't want to answer the question, is that correct?

A I don't understand the question.

PROSECUTION: Will you read it to him please?

(Whereupon the question was read by the reporter.)

Q You don't understand that question?

A Yes.

Q Well, answer it.

A When anyone got sick when he was working in the quarry when I was there I would immediately bring him automatically to the clerk's office and from there he would go into the camp.

PROSECUTION: I move to strike the answer, may it please the court, on the ground it's not responsive to the question and I again ask the court to instruct the witness to answer the questions that are propounded to him.

PRESIDENT: The motion to strike is sustained. The witness will answer the question directly in the best way he can.

A If I had sick people in the quarry they would be two or three people a week and they came to the hospital.

Q Now when this wagon that was used to transport the stones got loose and ran down the hill and ran into the stone masons' hall did it do any damage to the hall?

Ta 467-9/25-DHC-LL

A Yes.

Q What damage did it do to the hall?

A The wagon would speed through the doors that were closed at the entrance of the hall and then jump off the track.

Q What damage did it do to the doors?

A The doors were broken and if the prisoners hadn't jumped off to one side it would have run over various prisoners.

Q How badly did it damage the doors?

A It broke it completely in pieces.

Q Who was the SS man that was on duty with that commando at that time?

A At this time there was no detail down in the quarry.

Q Who was the SS man on duty with the commando that worked in the stone masons' hall?

A This commando leader had charge of this hall and a certain Fritz Karsten was the capo in the hall.

Q You answer the question, please.

A The SS man had the entire detail, also the stone-cutters.

Q Who was he?

A In the year 1944 it was the detail leader Boelch and Hammelde.

Q Was 1944 the year this incident took place that you described to the court on your direct examination?

A This incident?

Q Yes, the incident that you described to the court.

A The one I just described?

Q On how many occasions did such an incident take place?

A That often happened due to the negligence of the prisoners.

Q How often did it happen?

A Three times.

Q During what year did that happen?

A 1944, also 1945.

Q And on each occasion were the doors of the hall destroyed?

A No, the small car would slide down the slope at the spot where it would have been dumped.

Q What year was it that the incident took place when the doors were destroyed?

A 1944.

Q At that time I believe you stated that you punished these prisoners for their negligence, is that correct?

A Yes I did, of course.

Q And what did you do to them?

A The first time I gave them instructions through an interpreter whom I had in the quarry and the second time I gave them a few slaps because I constantly warned the prisoners that they should not let the little car run freely without the braking apparatus on it.

Q And you did not report these prisoners?

A No.

Q Why not?

A If I had they would have lost bread or else they would have gone to the transport commando.

Q What was the transport commando.

A That was the detail leader in charge of carrying material from one hall to the other.

Q Well, that was no punishment, was it?

A No. Most of the people liked to stay on that detail exactly as they liked to stay by me.

Q So that if they had been reported they would have been put on this detail that they liked to be on, is that correct?

A Yes.

Q And that's the reason why you didn't report them?

A Yes.

Q In other words you refused to report these men because they could better their condition by having been reported, is that correct?

A I also protected the general welfare of my detail.

Q Well, you certainly were not protecting the general welfare when you refused to report them when the result of that report would enable them to get a better detail —

MR. MC KAY: The question is objected to as argumentative.

PRESIDENT: Objection overruled.

A The prisoners would have had to expect another punishment besides the transport detail.

Q Well, what other punishment would they receive?

A They would have called it an act of sabotage and it would be possible for the prisoners to be hanged for it and cost the lives of various prisoners.

Q Isn't it also true that what they did was obvious to commando leaders that had charge of the detail there so that a report would have been immaterial?

A I don't understand the question.

Q It was obvious to any one was it not that the doors had been destroyed by this car that had run down the slope, is that not a fact?

A Yes.

Q So that it was immaterial whether or not you made a report as to the cause of destruction of these doors, is that not true?

A The doors were immediately repaired.

Q Didn't you state that they were destroyed?

A Of course they were destroyed but they had to be repaired immediately.

Q And you tell this court that it was not apparent to the commando leader in charge of that detail that these doors had been destroyed?

A Of course if the commando leader came and saw the doors broken he would ask the capo of the hall why the doors were broken and this capo would have to give him information about it.

Q And that never took place when the doors were broken and you were capo, is that correct?

A Yes, but I didn't tell the capo who it was.

Q You didn't tell who who it was?

A The capo from the hall never told the commando leader who it was.

Q You were the capo at that time, were you not?

A In quarry 1.

Q Well that was the place where this took place, is that not true?

A The little car rolled into stone-cutter's hall, No. 10.

(Jakubith - Cross)

Q Answer the question please.

A I was the capo in quarry one, but not of the hall.

Q And the SS man never asked the capo who it was that did it?

A He probably asked the capo in charge of the hall who was responsible for it, but this capo never told him and he had the cabinetmakers from the quarry immediately repair the door.

Q Well, all that the commando leader would have to do would be to come up to your detail and find out would he not?

A He never came to me.

Q That is all he would have to do to find out, is that not true?

A Yes.

Q Now you worked under Rochel how long?

A I worked under Rochel from January, 1943 until the fall of 1943.

Q And how many men were driven into the wire at that time?

A I saw Rochel do that twice.

Q How many other people were driven into the wire not by Rochel?

A I don't know.

Q Well, were any driven into the wire during that same period of time?

A I didn't see any more in 1943, except for these two whom Rochel drove in the wire.

Q Do you know a man by the name of Stanisla Rosga?

A I don't know him.

Q Isn't it a fact that during the year 1943 on three different occasions you beat prisoners so badly that they were driven

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into the barbed wire and there they were shot?

A Never.

Q While you were capo is it not a fact that you had a Greek in your detail?

A I can't remember the individual prisoners anymore.

Q Well do you deny that you had a Greek in your detail?

A I can't remember that anymore.

Q How many Greeks were in Flossenburg that you know of?

A I don't know.

Q Were there any Greeks in Flossenburg that you know of?

A There probably were some there but I don't know the number.

Q And during the time that you were capo, is it not a fact that you took the bread away from a Greek and he started crying like a child and complained to an SS man?

A Never. I never took bread away from a prisoner, never.

Q And isn't it a further fact that this took place on or about ten o'clock in the morning?

A Never.

Q And isn't it a further fact that thereafter that Greek complained to the commando leader?

A Never.

Q And after the commando leader left you beat the Greek so badly that he died the next day?

A These incidents are not known to me.

Q Did you know a man by the name of Jan Bednarek?

A You mean the one who was here as a prosecution witness?

Q Do you know a man by the name of Jan Bednarek?

A I saw him here on the witness chair for the first time.

Q Did you know a man by the name of Nickolaus Hrekowian?

A I don't know him.

MR. MC KAY: The question is objected to for the reason that it is argumentative. It is not shown that that man has ever been a witness here and I move to strike the answer. The answer was given before I could make my objection.

PRESIDENT: Motion is denied.

Q Will you answer the question, please?

A I never knew him.

Q In 1943, is it not a fact that you beat Nickolaus Hrekowian so badly that he remained lying on the ground?

A Never.

Q And isn't it a further fact that during that same year, 1943, you beat two Poles so badly that they died two days later?

A Never.

Q Do you know a man by the name of Krusszewski?

A No.

Q Isn't it a fact that during the year 1942, the latter half of that year, that you beat the prisoners so badly that two or three were driven into the wire practically every day?

A What year?

Q '42—the latter half of '42.

A I was a stonecutter at that time. I didn't have any responsibility.

Q Well, did you do that in the year 1943?

A Not then either.

Q '44?

A Not then either.

Q '45?

A Not then either.

Q Is it not a fact that you beat prisoners who failed to take off their caps in the guardhouse?

A They were beaten by the Camp Commander Koegel or the Adjutant Baumgartner or the leader of the prisoner's protective custody camp, but never by me. Or they were beaten by the foreman of the detail in question. The party in question would get his face full of blows by Commander Koegel or Adjutant Baumgartner or the leader of the protective custody camp Fritsch and then they would get blows with a stick in the clerk's office. That happened daily.

Q And who administered those blows in the clerk's office?

A Either the Campeldest Uhl or Dietrich. 1st Sgt. Kuebler of the SS also beat prisoners.

Q And you tell this court that you never at any time beat a prisoner for failing to remove his cap as he passed by the guardhouse, is that correct?

A I never did it. That was either the commander or the adjutant.

Q Now, you beat prisoners did you not who had smoking materials, cigarette lighters or holders in their pocket, did you not?

A I never beat them. I only beat bread thieves. I only beat people who did uncomradely acts toward their comrades, or those people who removed themselves from my detail and went to sleep and didn't hear the signal for work to cease at night.

Q And you beat those people with a rubber gummi, did you not?

A There wasn't any rubber club.

Q You never carried a rubber hose with you at any time while you were in the quarry?

A You couldn't beat any prisoner to death with a rubber hose.

Q Did you try?

A Not yet.

Q What was the work that the punishment company did in the camp?

A They worked segregated from us completely. The worked here and there and everywhere, always segregated. We never had contact with them.

Q Will you answer the question please?

A I did answer the question.

Q Read the question to him please.

(Whereupon the reporter read the question.)

A I don't know what they did in the camp, I wasn't in there.

Q Where did the punishment company work?

A Once in a while they worked in the quarry. They came and got stones and then they worked building a pond and then they were dissolved.

Q When was it that they were dissolved?

A 1943.

Q The first part or the last part of 1943?

A The first part of the year.

Q And that was when you were assistant to Rochel, is that not correct?

A I never was a helper of Rochel and I never had anything to do with the punishment company.

Q You never worked for Rochel?

A That was the capo of quarry onebut never the capo of punishment company.

Q You answer my question.

A I did answer your question.

PROSECUTION: I ask the court to please instruct the witness to answer the question that was propounded to him.

PRESIDENT: Repeat the question, reporter.

(Whereupon the question was read by the reporter.)

A Yes, I did work under Rochel, but never for the punishment company.

Q I didn't ask you about the punishment company; please answer the question. How long did you work for Rochel?

MR. MC KAY: I object to it as repititious.

PRESIDENT: Repeat the witness' answer.

(Whereupon the question was read by the reporter.)

PROSECUTION: If he did answer, may it please the court, I don't recall the answer and I'd like to have the benefit of his answer now.

PRESIDENT: Objection overruled.

A I worked with Rochel from January, '43 until June, '43. He was the capo of quarry one and I was assistant capo at that time. I have repeatedly told you about that already.

Q Will you just confine your answer to the question that I ask you.

PROSECUTION: May it please the court, the witness here is being insulting in his answers and he is not at all replying to the questions that are prepounded to him. He is continually digressing from the questions that are propounded and I ask that the court

instruct the witness to conduct himself in a proper manner before this court.

MR. MC KAY: If it please the court, the continual repetition, the method which the prosecution has used to try to introduce evidence into the record through his questions is certainly improper conduct upon his part and if any reactions come from the witness, it is because of the prosecutions own conduct.

PROSECUTION: May it please the court, I think that that's an affront that should not be permitted before this court in the presence of these accused. I submit that every question that I have asked this witness is perfectly proper and if there was anything improper it was the duty on the part of the counsel to object to it and certainly the duty of this court to sustain the defense counsel in his objection, and I think for him to make a voluntary remark like that gratuitous remark without any foundation for it is grossly improper and certainly deserves the censure of this court.

PRESIDENT: The court directs that both the defense and the prosecution avoid personalities in this particular case. The witness is directed to answer the questions put by the prosecutor concisely and to the point. If at any time the witness does not understand the question, he should so state, or if at any time the witness does not know, he should so state. The witness is simply directed to answer the questions to the best of his ability and, further, to avoid any explanations at this particular time. The court will give you an opportunity later on to make any explanations you see fit as to your answers.

The court will recess for one-half hour.

(Whereupon the court recessed at 1500 hours.)

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(Whereupon the court reconvened at 1550 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all of the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding, and Dr. Engelhorn who are absent on business of the accused, all of the accused are present with the exception of Buddensieg, Oswalt and Olschewski who are sick, and Fahrnbauer who is absent on business of his counsel. The interests of those named accused are being taken care of by their respective counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

The witness is reminded that he is still under oath.

PRESIDENT: Continuation of cross-examination.

ALOIS JAKUBITH, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

CROSS-EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continuing):

Q You stated, Jakubith, that some of the prisoners in your detail were undernourished. What do you mean by under-nourished?

A That was the fault of the poor food in the camp.

Q What do you mean by poor food?

A I say that the food was poor at various times.

Q What do you mean by poor?

A There were many days when the food was inedible, the food was poor.

Q Why was it poor?

A Because the food was prepared poorly at various times.

Q In what respect was it poorly prepared?

A I can remember that we got food at various times that was inedible and that we got food with unpeeled potatoes in it where the potatoes weren't cooked and at various times the food stank.

Q Did you get enough to eat while you were there in Flossenburg?

A No.

Q Did the other prisoners in Flossenburg get enough to eat?

A I don't know that.

Q Did you ever see any evidence of the fact that prisoners in Flossenburg did not get enough to eat?

A I wasn't able to find that out.

Q You never saw prisoners at Flossenburg who appeared as though they had not been fed enough?

A There were transports which arrived from the outside and those people looked bad.

Q Well did the people who did not arrive on these transports give the appearance of not having had enough to eat?

A It often happened sometimes that when a prisoner was sick he looked bad.

Q And were the only prisoners that looked bad those that came in on the transports and those who were sick?

A From both those sources.

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Q Will you read the question to him please?

(Thereupon the question was read by the reporter.)

A Yes.

Q All the other prisoners in Flossenbury then with the exception of those who came in on the transport and those who were sick gave the appearance of having had enough to eat, is that correct?

A That isn't what I said.

Q I asked you that question.

PRESIDENT: Now, just a minute. You answer the questions put by the prosecutor and we don't want any more of these comebacks.

A There were various other prisoners who looked bad.

Q Who were the,?

A I, myself, also.

Q And who were the others besides yourself?

A Various other prisoners of all nationalities.

Q And what was that due to if you know?

MR. HALL: If the court please, I object to that question. This whole line of testimony is strictly medical and I make a specific objection t this question. He's asking for a cause concerning the certain physical condition which I say is highly improper from this unqualified witness.

PRESIDENT: Repeat the question.

(Thereupon the question was read by the reporter.)

PRESIDENT: Objection overruled.

A The bad food was responsible.

Q Well, was there a sufficient quantity of food, whether

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it be good or bad, for the prisoners to eat there in Flossenburg?

A Everybody got the portion he was entitled to. It was partly inedible and the bad condition of the prisoners can only be attributed to the poor food.

Q Was the quantity that they received sufficient, assuming that it was all edible?

A Everybody got his normal food which he was entitled to.

Q Did you get the same amount of food in Flossenburg that you got before you were sent to Flossenburg?

MR. MC KAY: Just a minute. That question is objected to as being improper in form for the reason that it is seeking to strike a comparison which there is no basis for. The original testimony was that he had not been in another concentration camp except for four days at Sachsenhausen.

PROSECUTION: From the objection that was made, may it please the court, I don't believe counsel understood the question that was asked at all.

PRESIDENT: Repeat the question, please.

(Whereupon the question was read by the reporter.)

PRESIDENT: Dr. Wacker?

DR. WACKER: I mustobject to this question also on the basis that the witness is being asked about the food in a period of time when the war was going on and, as a matter of fact, the only period of time he could compare it to when he was outside of the camp was when they could get all the food they wanted.

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PROSECUTION: I just want to add, may it please the court, that this is asked in order to amplify and to ascertain from the witness what he means by normal rations in the camp.

PRESIDENT: The objection of defense counsel Mr. McKay is sustained. Rephrase the question if necessary, Mr. Prosecutor.

QUESTIONS BY PROSECUTION (Continuing):

Q You stated that a prisoner received the normal amount of food that he was entitled to, did you not?

A Yes.

Q What was the normal amount of food that a prisoner was entitled to receive?

A He got his litre of food at noon and he got his bread at breakfast and at evening his quarter-loaf bread and his portion.

Q Was that all?

A Nothing else, in the morning coffee.

Q Is that all?

A That was the way it was at the end. In the year 1942 they got soup morning and evening and afterwards that was done away with, then they got coffee in the morning and tea in the evening.

Q Did you get more food after 1942 or less food?

A We kept on getting the same with the only difference that it was worse.

And that continued from 1943 up to and including the end of the camp, 1945, is that correct?

A There were days when you could eat the food. There were other days when you couldn't eat the food at all, especially in

'42 and '43.

Q Did you always eat the food in '44 and '45?

A It was also bad, I seldom ate my noon meal, I lived for my bread, I only ate it Sundays. Captain Kiersammer, the chief of the administration, was responsible for that. He was at fault in that matter.

Q Did Nathoi live in Block No. 1?

A Yes.

Q Was Hauser in Block 1?

A No.

Q Did Finschel live in Block 1?

A At the end when he had orderly duties.

Q Did Neye live in Block 1?

A No.

Q Did Zimmerman live in Block 1?

A Which Zimmerman, which one?

Q Did you know a man in Flossenbürg by the name of Zimmerman?

A He's not known to me.

Q Did Rochel live in Block 1?

A No.

Q What block did he live in?

A Block 4.

Q Did Weilbach live in Block 1?

MR. MC KAY: That's objected to as going beyond the scope of cross-examination.

PROSECUTION: May it please the court, he has testified as to certain persons who lived in Block 1 and I have a perfect right to ascertain from him whether these people

Ta 468-9/25-DHC-7

lived there. I don't want to completely disclose the thought of my cross-examination to the witness at this time.

PRESIDENT: The objection is overruled but, Mr. Prosecutor, the court cautions you to stick right to the main issues of the case. The court understands you are going to connect this line of questioning up with issues at a later period?

PROSECUTION: I'm going to connect it up with statements that he made in respect to Block 1, may it please the court, but it's too late now, the whole point of it is lost because it's been translated into German prior to what was going to take place.

PRESIDENT: Proceed.

QUESTIONS BY PROSECUTION (Continuing):

Q Did Retzlaff live in Block 1?

A No.

Q Did Heinisch live in Block 1?

A No.

Q What other capos lived in Block 1 besides yourself?

A For some time the Russian officer who was capo in the horse stalls was quartered there and also the capo from the gardening outfit, a Pole, he also was quartered in Block 1, and then there was a capo from the Messerschmitt factory whose name was Foenstein, he was also quartered there for some time and then Roehner, the capo of the electricians, was quartered there in Block 1 for some time.

Ta 463-9/25-DHC-3

Q Was your capo in the year of 1942 quartered in Block 1?

A Never.

Q The food was distributed from the kitchen was it not?

A Never.

Q Where was it distributed from?

A The food was transported by automobile in kettles from the kitchen to the quarry, to the clerk's office in the quarry.

Q And was more food brought to the clerk's office than was necessary to give each prisoner his allotted amount?

A Actually two or three extra kettles of food would come which were more than the strength of the personnel in the quarry needed. Each detail had as much food as was allotted to the personnel of the particular detail and it all depended, it varied, there would be a quarter of a kettle remaining extra and every second and third day I would go to the clerk's office and demand an extra half-kettle of food and I always got it. Otto Skowska also knows that. He was here on the witness stand. And also Lesak who was here, and I distributed that to the prisoners. Everybody got his kettle of food from me and whatever was left over I would dispense according to numbers.

Q What do you mean "dispense according to numbers"?

A I had a notebook with me and the numbers of the prisoners were written on it from the lowest numbers to the highest and I would begin with the lowest numbers and distribute the extra food as a dessert, extra portion.

Q Isn't it a fact that you distributed that extra food in exchange for cigarettes from the prisoners?

A Never. I had my own smokes.

Ta 46
Ta 468-9/25-DHC-9

Q Now, when you were living in the SS barracks, I believe you stated that it was forbidden for these camp police to feed the prisoners or throw anything over the wire fence, is that correct?

A Of course it was forbidden but we still did it anyway. We would go into the camp for a period of time and give the prisoners food.

Q Wasn't it forbidden for you to go into the camp after you became camp policeman?

A Of course it was forbidden but it all depended on who the block leader was who was standing at the block leader house.

Q Isn't it a fact that you would have to go by an SS man at the gate in order to get into the camp?

A When I was with the camp police it wasn't so bad any more.

Q It was forbidden for you to do it, was it not?

A Of course.

Now, who was it that gave you the instructions to shoot prisoners who were unable to continue the march of evacuation because of weakness?

A That was a general order.

Q From whom did you receive that general order?

A Commander Koegel himself personally gave the order to 1st Sergeant of the SS Glasen who told it to us.

Q Were you present at the time that he gave that order?

A No.

Q Then how do you know that he personally told Glasen?

A Because Glasen told it to us himself.

Q And where were you at the time that Glasen gave you that order?

Tm 468-9/25-DMC-10

A After we had already started our march and were under way.

Q Had you received any orders prior to that time as to the disposition that should be made of prisoners?

A Only after we were already in motion, in march.

Q And you never received any orders prior to that time, is that correct?

A No.

Q That is not correct?

A Yes.

Q Well, when did you receive other orders?

A There was an SS man who went behind our marching column and constantly shot prisoners to death through the back of the neck. He constantly threw it in my face that I was not shooting prisoners and asked me whether I didn't know that I should shoot prisoners to death and I saw to it that I got away from this SS man and went up into the middle of the column.

Q Isn't it a fact that you received orders with respect to the disposition of those prisoners that were unable to continue the evacuation march prior to the time that you left Flossenburg?

A We didn't get this order until the march had started.

Q Will you read the question to him, please?

(Whereupon the question was read by the reporter.)

A We didn't get the orders until we were marching away.

Q Is that the only order that you received with respect to the disposition of those prisoners who were unable to continue the evacuation march?

A Yes.

Q You're certain of that?

A Except for one order which the SS got.

Well, you were not in the SS, were you?

A No.

And the camp police were not present at the time that order was given to the SS were they.

A No. The point at question here involved the way we threw food and smoking materials over the fence to prisoners inside the camp. The Top Sergeant Glasen came once when that was going on and said to the guard, "According to an order from Commander Koegel anyone who does that any more will be shot to death".

Q Now, what was the order that the SS received with respect to the disposition of prisoners that were unable to continue the evacuation march

A Shoot them to death.

Q Now, whose march column did you move in?

A I was in various columns.

Q All right, name them?

A In the second I was also together with Kautsch and I even stood guard with him at night.

Q And who was in command of the second column that you marched with?

A Hauer.

Q Who was in command of the other columns that you marched in?

A Each column had a leader for that particular group.

Q Who was the commissioned officer in charge of the second column that you marched in?

Ta 468-9/25-DHC-12

A That was Olesen.

Q What rank was Olesen?

A First or top sergeant, I don't know any more.

Q Do you know the difference between a sergeant and a commissioned officer?

A I am not acquainted with army matters.

Q While you were in Flossenburg from 1938 until the end, did you become acquainted with the difference between a commissioned officer in the SS and a non-commissioned officer in the SS?

MR. MC KAY: The question is objected to on the ground that it calls for an answer which it is apparent would not come within the scope of the charge and specifications under which these accused are now being tried and it is irrelevant to any issue in this case.

PROSECUTION: Now, may it please the court, in probing into the knowledge of a witness, you are not confined to any particular period of time. You may go back from the date that the man was born.

PRESIDENT: Objection overruled.

A In the camp I only knew the commander of the camp as a lieutenant colonel, the leader of the protective custody department as captain, the block leaders and the commando leaders as first, top and master sergeants. We weren't allowed to address officers. We always addressed them according to the rank which they had, first, top or master sergeant, but never addressed them as officer.

Q What rank did Schubert have?

A He was, at the end, 1st lieutenant.

Q Was he an officer or a non-commissioned officer?

A He didn't have anything to do with the camp.

Q You answer my question.

A He was merely a first lieutenant. I did answer the question, he was a first lieutenant. I don't know him as anything else.

PROSECUTION: I ask the court to direct the witness to answer the question and to strike the answer that he has made on the ground that it is not responsive to the question.

PRESIDENT: The motion to strike is sustained. The witness is directed to answer the questions directly. If you don't understand, say so, and the question will be repeated or explained to you.

A I understood the question and I stick to what I testified, that I only knew him as a first lieutenant in the quarry and never as anything else. He was never addressed as an officer.

PROSECUTION: Will you read the question?

(Whereupon the reporter read the following question:

"Q Was he an officer or a non-commissioned officer?")

PRESIDENT: Did you understand that question?

THE WITNESS: Yes I understand it.

PRESIDENT: All right, the witness is directed to answer the question. If you don't know, say so. Is he an officer or is he a non-commissioned officer?

THE WITNESS: I don't know.

PROSECUTION: No further questions.

MR. MC KAY: If it please the court, Mr. Hall has the cross-examination of this witness.

Ta 468-9/25-DHC-14

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place at 1620 hours.)

(Whereupon the court reconvened at 1625 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, I suggest that the court ask Mr. Pinter about Mr. Gautsch because he's familiar with it.

PRESIDENT: Mr. Pinter, the court would like to know definitely whether Karl Gautsch is associated in any way with the prosecution?

MR. PINTER: At the present time he is being held here as a witness for the defense.

PRESIDENT: The court understands he was a previous prosecution witness.

MR. PINTER: He was and he was interrogated by the defense and the defense advised him they would call him at a later time as a defense witness.

PRESIDENT: The court would like to know definitely —

MR. PINTER: In the mean time he is taking care of the files in my office and looking after the files and also giving me information on various witnesses as they come in that he knows. In other words, he's giving personal information on Flossenburg as matters arise.

PRESIDENT: Then the court understands that this particular individual, Gautsch, is associated with the prosecution at the present time?

MR. PINTER: While he's waiting to be called as a witness for the defense.

Ta 460-9/25-DHC-15

PRESIDENT: Well, the court would like to know, Mr. Pinter, whether or not this particular individual has ever been authorized to interrogate any particular defense witness?

MR. PINTER: He has had no particular instructions on that in that respect at all.

PRESIDENT: Do you know whether or not that has taken place?

MR. PINTER: Not that I know of.

PRESIDENT: In other words, you have not authorized at any particular time this man Gautsch to interrogate a defense witness, is that correct?

MR. PINTER: Only insofar as the future Flossenburg case is concerned. After witnesses have been dismissed he has taken statements from them regarding possible defendants in the future.

PRESIDENT: Was that done in your presence or the presence of any other American officer or civilian?

MR. PINTER: Not at all times. These matters are merely written down in the German language for my own information.

PRESIDENT: The court understands this man is being held as a possible defense witness, is that the idea?

MR. PINTER: He was told that he would be called as a defense witness.

MR. MC KAY: If it please the court, I think I can help out on part of this. After Mr. Gautsch testified for the prosecution I did interview him and interrogate him. At that time he gave me information with regard to one of the particular accused. At that time I advised him that he might possibly be called as a defense witness.

Ta 468-9/25-DHO-16

PRESIDENT: The court understands, Mr. Pinter, that Gautsch interviewed these witnesses after they left the stand, is that correct?

MR. PINTER: That's correct.

PRESIDENT: And this interview referred to a possible future Flossenburg trial, is that correct?

MR. PINTER: That's correct.

PRESIDENT: Is this man Gautsch available at the present time?

MR. PINTER: He is as far as I know.

PRESIDENT: Court will be closed.

(Whereupon court was closed at 1630 hours.)

(Whereupon court reconvened at 1640 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present, all of the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding, and Dr. Engelhorn, who are absent on business of the accused, all of the accused are present with the exception of Buddensieg, Oswalt, Olschewski, who are sick, and Fahrnbauer who is at work with his counsel, and the interests of those named accused are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: The court at this time will call Karl Gautsch as a court witness. The present witness is excused from the stand

for the time being and will resume his position in the dock.

(Whereupon the accused Karl Jakubith was excused and resumed his place in the dock.)

KARL GAUTSCH, formerly a witness for the prosecution, having been previously sworn, was called as a witness by the court and testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have previously been before this court as a prosecution witness?

A Yes.

Q You were sworn at that time?

A Yes.

Q The court cautions you that you are still under oath.

A I understand.

Q What is your name?

A Karl Gautsch.

Q Spell your last name?

A G-a-u-t-s-c-h.

Q You were a previous prosecution witness?

A Yes.

Q Have you ever been notified that you are being held as a possible defense witness?

A Yes, for one case.

Q What is your present status? The court wants to know just what you are doing at the present time.

A I administer the documents for a coming or future Flossenburg trial.

(Gautsch - Court)

Q You have access to the Flossenburg files?

A Yes, I am in charge of them.

Q Have you ever interrogated any defense witness prior to that witness taking the stand?

A No.

Q Are you sure about that?

A Yes, I'm sure about it.

Q Have you ever interrogated any defense witness after he had finished on the stand?

A Yes, in order to find prosecution witnesses for the future trials — Flossenburg trials.

Q Have you ever threatened a defense witness after he left the stand?

A Never.

Q You are sure about that?

A Yes, I never influence any witness either.

Q You are aware of the fact that some of these witnesses may be recalled to the stand, are you not?

A Yes. I ask that any defense witness be asked whether I ever influenced him.

Q That is not necessary. The court is asking you questions right at the present time. Did you ever make any endeavor to ever influence the testimony of any defense witness?

A Never.

PRESIDENT: Any other questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q Did I understand you to say you had or had not talked to any of the defense witnesses?

A After they had left this court room.

Ta 468-9/25-DHC-19

Q How many of the defense witnesses have you talked to?

A I speak with every witness because every witness knows me.

Q Will you give us the names of the defense witnesses you have talked to?

A All who were here.

Q You have talked to all of the defense witnesses who were here?

A Yes.

Q Do you come in the court room and check to see when they testify?

A No.

Q Have you talked to all of the defense witnesses who are here?

A Yes.

Q And do you know if these people, all these defense witnesses here, have testified already?

A I don't know that.

Q Then how do you state that you have only talked to them after they have testified?

A When they drive home. It also happens that I've talked to witnesses here when they arrive but never about anything in connection with the case because I don't know for whom they are being interrogated.

Q Do you know when witnesses arrive to testify in this case?

A Yes, when I see them in the dining room and they greet me.

Q Do you have any record of the witnesses who are summoned for the defense?

A No.

Q Well, how do you know to interrogate them? How do you know who they are?

A The prosecution and the defense have made an agreement whereby defense witnesses stand ready at the disposal of the prosecution in order to verify who will be the accused in a future Flossenburg case.

Q Where do you interrogate these witnesses?

A The witnesses come to us and I show them the pictures which we have and then they tell me whether they know anything about anyone.

Q Do you send for them to come into the office?

A Yes.

Q And you use the files in connection with your interrogation of these witnesses?

A Yes. I ask them what they know.

Q I assume you know these witnesses by reason of the fact that you were with them in the camp at Flossenburg, is that correct?

A Yes.

PRESIDENT: Further questions by members of the court? Dr. Wacker?

DR. WACKER: I ask the court to ask this witness to explain the conversation which he carried on with Mr. Roehner who is yet to appear here as a defense witness.

PRESIDENT: The court will grant Dr. Wacker to ask the witness the question indicated.

Ta 468-9/25-dho-21

QUESTIONS BY DR. WACKER:

Q Did you interrogate the witness Roehner?

A Roehner — who is that?

Q Do you know Roehner?

A I can't remember. Was he at Flossenburg?

Q Yes.

A And he's here as a witness?

Q Yes. Do you know him?

A If it's the fat man, yes.

Q He is with you in the witness barracks?

A Perhaps I could see him?

Q I don't know.

A If I know who you are talking about then I could answer you.

Q Didn't you say that you interrogated all witnesses after they had appeared here as defense witnesses?

A Yes, but I can't remember all the individual cases.

Q Don't you know that a witness Roehner was interrogated here?

A If I see the man then I can tell you whether it was he or not.

Q He is an electrician.

A I can't remember the man. But at any rate I never influenced any witness with whom I spoke here and never influenced them in regard to this present trial.

Q Don't you remember carrying on a conversation with the witness who finally said he would not help the prosecution?

A No.

DR. WACKER: I'm not so clear about this matter. Perhaps the accused themselves should have a chance to ask questions.

PRESIDENT: Mr. McKay?

QUESTIONS BY MR. MC KAY:

Ta 468-9/25-DHC-22

Q If it please the court, I'd like to ask if he's interrogated a man by the name of Karl Erich?

A No, I never interrogated him about anything. I merely greeted him and I can repeat to Mr. McKay the conversation which we carried on.

Q Did you talk to Mr. Erich prior to the time that I talked to him?

A I don't know — no. Wait a minute, I spoke to him after he had already been with Mr. McKay.

Q Was that during the day or at night?

A That was in the afternoon. He told me about what he was questioned.

Q Don't you know that I didn't interrogate Karl Erich until after supper, after you had met him?

A I greeted Karl Erich in the afternoon and then drove home and the next day Karl Erich spoke with me and said that he was leaving already.

Q What did you say to Karl Erich prior to the time he talked to me?

A Nothing. We greeted each other.

Q Have you been advised as to just what the agreement was between the prosecution and defense with regard to interrogating witnesses?

A Whether anyone commissioned me with that?

Q Did anyone tell you just what the agreement was between the prosecution and defense with regard to interrogations?

A I heard it. I heard that when the witnesses of the defense were finished they were at the disposal of the

prosecution and could be interrogated in regard to future cases.

Have you made any check to determine whether a witness was completely finished by the defense before you interrogated him?

A Yes. They always said to me, "I'm now finished, now through".

Did Mr. Roehner tell you that?

A I can't remember Herr Roehner, that's why I don't know it.

Q Do you remember a young man who wore a light grey suit with a sweater which had a white line around it who was the former capo in charge of the electricians at Flossenburg?

A No, I don't know that. If I would see him I would be able to answer your question.

Q Do you make any check in the defense counsel office, the office of Colonel Wilson, prior to the time you interrogate witnesses?

A No, I don't do that.

Q Then you don't know whether we're through with them before you interrogate them, do you?

PROSECUTION: I object to that, may it please the court. The witness has already stated that he ascertained from the witnesses themselves whether or not they had finished.

PRESIDENT: Mr. Prosecutor, the objection is overruled. That particular witness might not be in a position to know that.

PROSECUTION: That is my understanding, may it please the court, since I have been sitting here as chief prosecutor, that this court has inquired of defense counsel each time before

(Deutsch - court)

a witness is excused whether or not they are through with that witness. They have also inquired of the prosecution whether or not they are through with that witness and almost invariably and without exception, counsel for the defense has stated that he expects to call this witness at a later time for other persons in the dock. Now, I don't know whether the court remembers that or not but I'd like to go back and have the record read to the court.

PRESIDENT: That is not necessary, Mr. Prosecutor. The court fully understands that, but the court understands also that that particular matter might lead to some confusion. That particular witness might be called at a later period and in the mean time the witness on the stand might interview him and that's the point in question.

PROSECUTION: Of course, may it please the court, anything might happen but a very serious charge has been leveled at this man here and I think that it's only reasonable and proper that a man be required to act as a reasonable man and when a witness tells him that he is finished, before he asks him any questions, I'd think he would have a right to rely on the statement of that witness. That is particularly true after the instructions have been given to the witnesses that leave this court room.

PRESIDENT: The court does not entirely agree with that, Mr. Prosecutor, due to the fact that the witness may have finished his testimony for the time being but he might be recalled and that is where the difficulty comes in. The reason the court has called this particular individual as a witness before the court, as a court witness, is due to certain evidence that has

gone before the court and the court intends to get to the bottom of it.

PROSECUTION: This court has seen fit to act on a hearsay accusation of one of the accused in this case. I am not trying to outline any procedure for this court but I would like to suggest that this court go to the man whom the witness on the stand testified made the original accusation to him and find out from that witness the likelihood of the truth or falsify of the charge that has been made and not subject this gentleman to the embarrassment that has been sought to have been heaped upon him.

PRESIDENT: Mr. McKay, the court understands that the present witness, Mr. Gautsch, has been designated as a possible defense witness, is that correct?

MR. MC KAY: That is correct, sir.

PRESIDENT: Mr. Prosecutor, the court feels that this particular individual, Mr. Gautsch, as a possible future defense witness should never have access to the files of the Flossenburg case. The court further directs that this particular witness, Mr. Gautsch, under no circumstances will interrogate any defense witness prior to the time that that individual takes the stand and further, that after any witness has left the stand that you will not interrogate any witness that has appeared before this court without the permission of this court. The court further directs that the present witness have no further access to the files of the Flossenburg case as long as there is a possibility of the defense calling him as a defense witness. Mr. Gautsch, do you fully understand the directions the court has given you relative to the interviewing of these witnesses?

Ta 468-9/25-DHC-26

THE WITNESS: Yes, but I only work over the files of the second Flossenburg case and not this one.

PRESIDENT: The court directs the prosecution that you no longer have access to the Flossenburg files as long as you are subject to being called by the defense as a witness. The court also advises you that if you do not follow out directly and to the letter the directions of this court, the court is going to hold you for contempt of court. Any questions by members of the court? Defense?

MR. MC KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1700 hours, 25 September, 1946.)

Ta 468-9/25-DHC-26

THE WITNESS: Yes, but I only work over the files of the second Flossenburg case and not this one.

PRESIDENT: The court directs the prosecution that you no longer have access to the Flossenburg files as long as you are subject to being called by the defense as a witness. The court also advises you that if you do not follow out directly and to the letter the directions of this court, the court is going to hold you for contempt of court. Any questions by members of the court? Defense?

MR. MC KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned at 1700 hours, 25 September, 1946.)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Court Duplicate Copy

FLOSSENBURG
Case No. 1
*~~Summary~~
*~~International Military Court~~
*General
Place DACHAU, GERMANY
Date 26 September 194 6
0900 - 1700 hours
~~Members of Court~~:
WITNESSES:
ALOIS JAKUBITH
KARL MATHOI

Pages 4069 - 4143 Incl.
Prosecutor
Defence Counsel
Interpreter
Reporter

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
  - or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

26 Sept. 1946 0900 - 1700 hours Pages 4069 - 4143 Incl.

TESTIMONY

WITNESS	Direct	Cross	Redirect	Recross	Court
ALOIS JAKUBITH			4069 4094 4107	4080 4095	4085
KARL MATHOI			4109		

Camp Dachau, Germany
September 26, 1946

MORNING SESSION

(Thereupon the court reconvened at 0910 hours).

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding and Dr. Engelhorn who are absent on business of the accused, and all the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Mr. McKay, redirect.

REDIRECT EXAMINATION

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

QUESTIONS BY MR. McKAY:

Q Mr. Jakubith, what do you mean when you say when you know a person?

A I don't understand the question.

Q The prosecution asked you on cross examination whether you knew certain people and I would like to have you explain what you mean when you say you know a person?

A You mean in regard to the names which the prosecution read

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9-26-eb-2

to me yesterday?

Q With regard to your fellow accused. He asked you if you knew certain people.

A I don't know any more.

Q Will you explain to the court the difference between a capo and block eldest?

A Yes. The block eldest was responsible for his block, for the cleanliness of it, he had to see to it that no thefts were committed on the block, that the strength of the personnel was accurate at roll call, that nobody went and hid during roll call, that the kitchen and other blocks didn't undertake any thefts in this block during air raids. The block leader or the roll call leader were responsible for these matters.

Q Did the block eldest have anything to do with the work detail?

A Never.

Q Did the capo have anything to do with the administration of a block?

A Never. The block eldest never stood by idly and would allow a capo to interfere with matters which concerned a block eldest and in that regard I would like to make the following explanation. Before the war, between the years 1938 and 1942 in each wing of a block there were two orderly services and a barber.

PROSECUTION: Just a minute. I move to strike may it please the court on the grounds that it does not come within the purview of the issues of this case.

PRESIDENT: Read the question please.

(Whereupon the last question was read by the reporter).

PRESIDENT: You are referring to that last sentence "before the war"?

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9-26-eb-3

PROSECUTION: Yes, sir.

DR. WACKER: I would like to check whether the interpretation covered what the witness said here. He said between the years 1938 and 1942 and I want to check whether he meant including 1942 or whether he meant up until the first of 1942.

PRESIDENT: The motion to strike on the part of the prosecutor referring to the indicated portion of the last answer of this particular witness covering the period prior to 1942 is sustained.

Q Mr. Jakubith, you referred to a man by the name of Maurer being a capo in the transport detail. How did you know when he became capo?

A As far as I remember Maurer had the supervision of the wood yard. There is a misunderstanding. He did have to work with the capo in charge of the transport detail whose name was Hilmer Tillmeier but actually the transport detail was under the direction of this Hilmer Tillmeier and not Maurer.

Q Did you know when Maurer became capo of this wood detail?

A I can't tell you any more.

Q Can you give us your best judgment as to when you first saw Maurer acting as capo of that detail?

A I believe in the year 1945.

Q You stated that Sergeant Fischer made you a capo. Will you explain that?

A Yes, he made me a capo after I had finished my course as a stone cutter and had an idea how to go about working other stones and doing the stone cutting work.

Q Will you explain to the court what relation a stone cutters' hall had to a quarry as far as the supervision of the detail was -- concerned?

(Jakubith - redirect)

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A The stone cutters' halls didn't have anything to do with the details with the working in the quarries which were in operation, quarries 1, 2, 3 and 4. There was an individual detail for each of the particular units whether it was quarries 1, 2, 3 and 4, or the individual stone cutters' halls 1, 2, 3 and 4. Each of these details had its own capo and in charge of these capos stood the chief capo. All the quarries would have the stones taken into the stone cutters' halls. One detail had nothing in common with another detail. It was merely a quarry, but in the quarry would be various details.

Q Do you know whether Rochel had anything to do with the punishment company?

A He himself sent people to the punishment company.

Q Do you know whether he was ever a capo of that company?

A Never. They had their own capos. I can count all the names of the capos for you.

Q Who were they?

A Lell, Boenschulte, a certain Hans Stiel and Max Jakobs. They had the punishment company.

Q You stated on cross examination that the physical condition of the prisoners in the camp and on your detail began to become worse after the transports arrived. When did those transports begin to arrive?

A After these camps had been evacuated.

Q What year do you recall them starting to come to Flossenburg?

A In 1945 transports came to Flossenburg.

Q Did any transports come in 1944?

A I can't tell you exactly because the transports arrived when we were at work and we couldn't see them.

Q You stated that Mathoi lived in block 1. What position did Mathoi hold when he was living in block 1?

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A When he was camp eldest he was quartered in block 1. When he was no longer camp eldest he stayed in the convalescence ward.

Q Was it customary for the camp eldest to live in block 1 ?

A Yes.

Q You stated on cross examination that you often asked the orderly room in the quarry for an extra half kettle of soup. Why did you do that?

A Yes. In order to keep my people alive. The drillers, the people who worked the cranes and the stone transport people. I didn't get any replacement for these people from the camp. They had to work in the same detail for years at a time and had to be exposed to all inclement weather and it is natural that they therefore got sick. In order to keep these people in shape I would go to the clerks' office and ask Schubert for extra food for these people. I also gave them some of my own food without asking anything in return. I was always trying to keep these people in shape, these drillers. I kept asking Schubert to give me new people and he said "I can't help you because I don't get any replacements from the camp." The specialist workers which I had with me in the quarry came out of the quarry and went to the armament works and I never got any replacements for them. I had to see to it that I kept these people alive and thats the reason why I went to the clerks' office and kept asking for food. Skomska and Schubert knew about that and these people would work at the hammers for three years at a time and be exposed to the elements. It is natural that they got sick.

Q Mr. Jakubith, at the time you were a prisoner in Flossenburg was there any difference in the respect that you had to pay to an SS officer and SS non-commissioned officer as far as you being a prisoner was concerned?

A As far as we prisoners in the camp were concerned there were not any officers. As I said yesterday we would address a block

leader as staff sergeant, as a sergeant, as a captain, or as a first lieutenant colonel but we never addressed them as officers.

Q Was there any difference in the form of respect which you were required to give to an officer and to a non-commissioned officer?

A When the commander of the camp or the leader of the camp would meet me, I would have to address him as commander or as lieutenant colonel or captain.

Q What were you required to do as a prisoner when any of the SS personnel met you in the camp?

A At the block eldest's house there was a prisoner standing, he was a messenger. If the commander of the camp or the adjutant or the captain or the roll call leader would enter the camp then this messenger would call out "attention" and then we would all have to remain standing stiff at attention wherever we were and take off our hats. If one of these people whom I mentioned would come to my detail where I was working I would have to say to him "camp leader or commander of the camp, quarry 1 is reporting and so and so many people are present at work".

Q Was that report the same whether an inspecting officer or a non-commissioned officer or a commissioned officer?

A For an ordinary SS man, a soldier, a sergeant of the SS or if it was a block leader or commando leader we did not have to holler out "attention". It was only in front of the leader of the protective custody camp or the commander of the camp. We had to stay at "attention" from top sergeant on up.

Q Yesterday on cross examination when you were asked to read a portion of the statement that you made which has been introduced in evidence as Prosecution Exhibit Number 63, that part of the statement which reads "in the year 1942 the prisoners in quarry 1 had to have their dinner in the open". Do you recall that?

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A Yes.

Q You said that at that time you wanted to make an explanation of that. Will you do that now?

A Yes, but I don't need this to do it.

PROSECUTION: I did not hear the answer please.

(Whereupon the interpreter repeated the answer).

Q Go ahead and explain what you wanted to explain?

A There was a time in 1942 when we were not allowed to come into the halls to eat. We had to eat out of doors. That was during the time when I myself was still a stone cutter. It was forbidden that we go into the halls, the commando leader had forbidden it but in the year 1943 when the Messerschmitt factory was in operation we were all allowed to go into the halls. Earlier we had to get our food altogether. That is so to be understood that we all had to fall in,the whole quarry had to fall in, and in the year 1943 the Messerschmitt factory and all the commandos of each detail would get its own food automatically and then go into the halls and when it rained or snowed we were allowed to seek shelter. The chief capo arranged that and when it stopped raining or snowing then the prisoners would pick up their work again. I had a bunker built in quarry 1 by the suggestion of Mr. Schubert so that the people could seek shelter there in air raids and when it rained or snowed. Mr. Schubert approved that matter. The quarry master Schnappauf was always opposed to it. Whenever it rained I automatically sent people into the hall. I had two odds and ends rooms in my quarry and there was a stove in there and the people always stood next to the stove when it rained and when it stopped raining the men would pick up their work where they had left off. This was not possible during all of 1942, the year before, but starting with the year 1943 it was possible.

Q You have talked about SS personnel as being commando leaders and you have talked about SS personnel as guards. I would

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like to have you explain to the court the difference between the SS guard at the quarry and the commando leader at the quarry?

A The guard had nothing to do with us in the detail and with the detail leader. The guards stood outside the wire in towers and the commando leaders, detail leaders, block leaders, who were likewise detail leaders. That is the way it was in the year 1942. A detail leader would be at the same time a block leader but at the end a lot of block leaders came into the camp whom I didn't know and they took care of their blocks and the detail leaders in the quarry took care of their work there. We never came in contact with the guards.

Q Is there anything else you want to state to the court?

A Yes. I ask that the court listen to me testifying in my own behalf.

PRESIDENT: Just a minute Jakubith. Yesterday during the course of cross examination the court told you that at a later period the court would give you an opportunity to make an explanation of any of your answers or give you a chance to say anything else you desire. The court will give you that opportunity right now. You may make any explanation you desire or any statements you desire to the court.

A Yes. In regard to Rochel I would like to have that cleared up. When I came to Rochel's detail in the year 1943 he really was raising commotions with the prisoners, taking away their food and driving the prisoners into the wire. Since Rochel was my leader there I only had to do with him in regard to work matters but I never took part in any of the shameful deeds which he committed. I was never an assistant of his in that regard. In that moment when I took over charge of this detail all these things, all these conditions which had existed before I took over, stopped. I saw to

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it that they stopped. The capos and we block eldests did not make any discrminiation among nationalities. We capos and we block eldests sat together at the same table with foreigners and the capos were also sleeping with foreigners, with the prisoners. This comraderie which existed was one hundred per cent between the Germans and the foreigners. The only ones we ex-communicated were those who committed theft against a fellow prisoner or this type of man, the spies of the SS such as a certain Vohnstein. Such people of course were banished out of our common society but you should not understand that to mean that they were beaten up. No, we just segregated ourselves from them. They weren't merely cut off by us but they were cut off from the common society by the foreigners themselves because all we prisoners were a sworn unit against the SS and another proof of that is that foreigners took over all kinds of positions inside the camp. Sixty per cent of the following positions were held by the Poles and Czechs. The Russians, Italians and Hungarians had thirty per cent and we Germans had to take care of the last ten per cent and that lets itself be seen that in every respect we showed friendliness and comaraderie with regard to the foreign prisoners. We supported them in every respect with food and with clothes, also when they were sick. In the year 1945 when I myself fell sick foreigners were at my bedside, the same as Germans. I never stuck closer to Germans than I did with foreigners in my detail. The same is true for my contacts with other people in the stone cutters' halls. This Vohnstein was a spy. He was a chief capo for the Messerschmitt factory but was also quartered in block 1 for a period in the year 1944. Captain Fischer had us capos fall in in the roll call square and said "whoever touches this Mr. Vohnstein will immediately be locked in the bunker." He kept detail records of all us prisoners including the foreigners

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and gave them to Captain Fischer and ended up himself after in the bunker and the same thing is true with Puden. He was always a cover-up man and a spy for the SS. If a prisoner had beaten another prisoner to death so that the prisoner had to be taken to the hospital and died there, we prisoners would have found out about it and he would have been banished from the common society of prisoners and would have been transferred to an outside detail. This would happen to Rochel.

There have been many doctors here who appeared as witnesses and not one of them was ever able to prove that I beat anyone so that he died in the hospital and those people never called me to account because of mistreatment of prisoners. They were the ones who took the food away from the prisoners and made deals with them. They themselves were the ones who threw the people out of the hospital, who refused to accept patients in the hospital including some men from my own detail. I asked them myself why they had not been accepted in the hospital and they told me that either Goltz or Schrade had refused to accept them in the morning and to-day they appear here as prosecution witnesses. I know of one case after which Rochel immediately was sent to Auschwitz because of his brutality. A transport arrived from Auschwitz and the people on the transport, the foreigners, said that the foreigners in Auschwitz had finished off Rochel. Otherwise, I don't know of any case except for Meehof.

I myself got 25 blows with a stick and Mathoi can prove that I was innocent of that affair. He was supposed to give me 25 blows with a stick and Mathoi refused to do it. He told roll call leader Pohnat, "surely he is innocent of this affair and I refuse to beat him" and Mathoi, the camp oldest, went out of the clerks' office after he had refused to give me the blows and that is all that I

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wanted to tell the court.

PRESIDENT: Any further questions at this time Mr. McKay?

MR. McKAY: Nothing further, sir.

PRESIDENT: The court will take half an hour recess.

(Thereupon at 10.00 hours the court recessed).

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(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding, Mr. Hall, and Dr. Engelhorn, who are absent on business of the accused; and all the accused are present with the exception of Budiensieg, Olschewski, and Oswalt, who are sick in the hospital, and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses, t ey will please leave the courtroom.

The witness is reminded that he is still under oath.

ALOIS JAKUBITH, an accused, resumed the stand and testified further through an interpreter as follows:

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Now, Jakubith, you testified that only ten per cent of the positions in the camp were held by Germans. Is that correct?

A Yes.

Q Was that true from 1942 until 1945?

A I don't know.

Q Well, what year was that true?

A Generally.

Q Well, you just stated you didn't know whether it was

true from '42 to '45, and now you say it was generally true. Will you reconcile those answers please?

A Of course, in general because many Germans went to outside details and many Germans were drafted into the SS and many Germans were sent to the front. For that reason only ten per cent were left who occupied positions and as a result of that, various foreigners were chosen. They were even block eldests, doctors, and were in all the other details and the Germans in the camp got less and less.

Q In other words, there were more positions than there were Germans in the camp. Is that correct?

A The foreigners occupied more positions in the camp than the Germans, of course.

Q The question is: Is it not a fact that there were more positions in the camp than there were Germans to fill them?

A They usually took foreigners for that purpose, not Germans because no Germans were there any more.

Q Do you understand the question?

A Yes, I understand it.

Q All right, I will ask you again. Were there more positions in the camp than there were Germans?

A There were enough positions there, but there weren't enough Germans.

Q In other words, all the Germans then hold positions in the camp. Is that correct?

A There were scarcely any Germans there, as I have already mentioned. The positions were occupied by foreigners.

Q Did you understand the question?

A Yes, I understand.

Q Well, then, please answer it.

A I did answer the question in that I said that more foreigners occupied positions in the camp than Germans.

Q What was the question that I asked you?

A Whether there were more positions than Germans.

Q That's the question I asked you, and I ask you again if all the Germans in the camp held positions in the camp?

A No.

Q What percentage of the Germans in the camp did not hold positions in the camp?

A Ten per cent.

Q And these Germans that held positions were the wearers of the green triangle were they not?

A Also red triangles - political.

Q And what did you wear?

A I were a green one.

Q Do you know today the difference between a commissioned officer and non-commissioned officer in the SS?

A As I have already explained it before to the defense counsel, we were never allowed to address an SS man as an officer. We always addressed him according to his rank.

Q I didn't ask you how you addressed him. I asked you if you know today the difference between an officer and a non-commissioned officer in the SS.

A I have already answered the question, in that I said I would address a non-commissioned officer who was a staff sergeant as staff sergeant - scharfuehrer. I would address the leader of the protective custody camp as captain - hauptsturmfuehrer.

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And I would address the commander of the camp as lieutenant colonel in the SS. I don't know of any other forms of address.

Q What insignia did the commander of the camp wear?

A Four stars and a stripe. That stood for lieutenant colonel.

Q What insignia of rank did the report leader wear?

A It all depended. If he was a staff sergeant, he would wear one star; if he were a top sergeant, he would wear two stars and a stripe.

Q All right, who was the highest ranking man in the column that you were marching in on the evacuation?

A That was the commander of the camp.

Q He marched in your column?

A I saw him twice. He was accompanied by the adjutant, Baumgartner.

Q Did you get as far as Roeding?

A We went through the village and then the American occupation troops arrived and liberated us.

Q And prior to the time that you got to Roeding, who was the highest ranking man in the column that you were marching in?

A The one who had the highest rank in my group was top sergeant Glasen.

Q How many were in that group?

A I estimate 4,000.

Q And you tell this court that Glasen was in command of 4,000 prisoners there?

A I saw him. I saw Glasen. I can only tell you what I saw.

Q Did you see anyone else besides Glasen who was senior to Glasen?

A I saw various other ones, but I don't know them any more and I don't know what rank they had, except for the commandant.

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Q Now, Jakubith, isn't it a fact that you were sent to Flossenburg after having been convicted of stealing money?

A Not for that reason, no. I sat out my sentence. That was merely a measure, an act of terror which the Gestapo and the criminal police committed, the same as in March, 1937 - the so-called March Acts - where the police went and would get the sons and fathers from families, bring them to the police station, with the remark that they would come right back home again. Instead of that, they spent 12 years in a concentration camp. Most of them ended up there because they had been denounced and they all had to work. Some of them violated police conscriptions and ended up in a concentration camp.

Q Well, what date were you convicted of stealing money?

A I don't know any more.

Q Well, on what date were you convicted of stealing two radios?

A That is years back.

Q Well, on what date was it that you were convicted of stealing food?

A I never had anything to do with stealing food.

Q Were you not tried and convicted of stealing food and sentenced to imprisonment?

A Never.

Q How many times have you been convicted and sentenced for theft?

A Four, and I sat out each sentence.

Q And what was the date of your first one?

A I can't remember any more today. That's years back. I can't remember particular punishments any more, and the unemployment period drove me to these situations.

Q How old are you?

A Thirty-three.

Q Do you understand English?

A No.

Q And you can't tell the court when was the first time you were convicted or the last time you were convicted of theft. Is that correct?

A I know about the last punishment, but I didn't have anything to do with this money affair. My friend did that and he tried to drag me into that.

Q Well, you were convicted of it, were you not?

A Yes.

Q And you sat out the punishment, did you not?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q You mentioned certain political activities in which you had been involved in earlier years. Do you desire to tell the court just what those political activities were?

A I was earlier a member of the Communist Youth organisation.

Q What do you mean by that statement "earlier"?

A Before Hitler came into power.

Q Do you want to give the court the impression that you gave up those views, that you changed your viewpoint, or what?

A No.

Q Now, you mentioned that a capo didn't receive any particular benefits?

A Yes.

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Q When you were a capo, didn't you have access to more food than the average individual in camp?

A Never.

Q Didn't you have the opportunity to get a second helping at any time that you were a capo?

A I got the same extra portions as the other prisoners got.

Q Well, did all prisoners get extra portions, or did that just pertain to a certain number of the prisoners?

A All prisoners were involved in that and only when food was remaining extra.

Q During the time that you were a capo, did you have a separate bed?

A Never.

Q How many slept in the same bed with you at the time you were a capo?

A There were two beds and in the middle another one was sleeping, too - a foreigner.

Q As a capo when you were ill and feeling bad, did you go to the dispensary and get treatment?

A Yes.

Q As a capo you received more money than the average, didn't you?

A In the first period of time I got exactly as much as the others.

Q What about the latter period?

A In the last period of time I asked the first lieutenant for more money and I got it.

Q Well, do you still want to give the court the impression that as a capo you didn't have any advantages then?

A I didn't have any advantages. I tried on two occasions to be relieved of my duties but it didn't succeed.

Q Now, you gave the court a certain amount of evidence relative to this First Sergeant Glasen.

A Yes.

Q The court recalls that according to your testimony it was First Sergeant Glasen who put out the order relative to shooting stragglers on the march.

A Yes.

Q What became of this First Sergeant Glasen?

A I don't know.

Q When was the last time you saw him?

A On that day when the vanguard of the American tanks approaching us, and that was the time when I saw the commandant and the adjutant for the last time in an automobile.

Q Was the first sergeant in the automobile also?

A No.

Q What was he doing about that time?

A We were located on a farm and he was there, too.

Q That's the last time you ever saw him. Is that right?

A Yes.

Q Did you ever hear any more about what became of him?

A No.

Q Now, you gave the court some testimony relative to Ginschel's duties in the quarry. Just what duties was Ginschel performing in the quarry at that time?

A He came to me in the quarry and I said, "How do you expect to make out with your one arm? You can't do any work here anyway." He stayed with me for three days and took walks around. Then I asked First Lieutenant Schubert to take him out of my detail and send him back to the camp, but before that I had given him to Maurer, who had the woodyard, and from there he ended up in the camp.

Q Now, you gave the court certain evidence as to the various capos in charge of the punishment company. Do you know what became of those various capos?

A Nell became capo of the hospital in the year 1941 and then he ended up in a transport.

Q Did you ever hear what became of Beneschau?

A No.

Q What about the rest of these capos with the punishment company?

A Sovenschulte ended up with the army and Hans Stiedl became first clerk in the clerk's office in the camp.

Q Do you know where any of those former capos are at the present time?

A No.

Q Now, you gave the court certain hearsay evidence with respect to a prosecution witness by the name of Karl Gautsch. The court is referring specifically to matters that happened at Flossenburg.

A Yes.

Q Do you desire to give the court any more information about those activities of Gautsch at Flossenburg?

A Yes. As I said, in the year 1941 three Poles were hanged by the leader of the protective custody department, Auemeyer, as a result of being denounced by Gautsch and he got ten cigarettes because he did it. It was a general topic of conversation in the camp that one of the accused who is sitting here was there at the time when he denounced the three Poles and also was there when the Poles were hanged.

PROSECUTION: May it please the court, I move to strike the answer of this witness on the grounds that it is immaterial

and irrelevant to the issues in this case and on the further ground that it does not come within the purview of the period of time laid within the particulars of the charge.

MR. MOKAY: I believe the court has a perfect right to know anything about Gautsch in order to judge him as a witness and give his testimony consideration.

PROSECUTION: Gautsch is not on trial before this court, and there is a proper way to find out about matters that go to the weight and credibility of this man's testimony, but this is not the proper method.

PRESIDENT: The motion to strike on the part of the prosecutor is denied. The court at this time is endeavering to check the credibility of a prosecution witness.

Q What individual are you referring to as being present at the time this incident occurred?

A I am referring to the accused Gelhardt who knows it exactly.

Q Now, this matter that you have just testified to in regard to Gautsch is entirely hearsay as far as you are concerned? You were not present at that particular time, yourself?

A That was the general topic of conversation in the camp and we always found out about anything like that. We always found out about it through prisoners.

Q Do you wish to tell the court anything more about this particular matter referring to Gautsch?

A When we were being trained as camp police, he was there as an instructor. He stood guard with me and he accompanied the evacuation march and he was also instructed. He had an accident with an anti-tank gun when we were practicing on the shooting

range and I saw him speaking here at various times with the defense witnesses outside when we sat here and the court was outside and the defense witnesses were standing there. He would constantly carry on a conversation with them. He said to Roehner, "Roehner, you had better take it easy or you will end up in the dock yourself."

Q Just a minute. Were you present when that statement was made to Roehner? That is hearsay with you?

A Of course.

Q All right, proceed.

A And I believe it is true also. In regard to questions when he said he didn't know this Roehner, I believe that he does know him. I believe that he knows him a hundred per cent for the simple reason that Gautsch and Roehner were both quartered in Block 1. He can hardly deny that he knows a man who was quartered in the same block with him. And that is my testimony in regard to Gautsch.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY LAW MEMBERS:

Q How do you know that he made this statement to Roehner that you just said?

A Because it was known to us that he was standing outside there and an accused heard it.

Q One of the accused here in the dock heard him make that statement to Roehner?

A Yes.

Q Now, you said you saw him talking to certain defense witnesses. Was that before the defense witnesses had finished testimony or afterwards?

A The witness was on the stand. I remember that a defense

witness appeared here for Mathoi and he was standing outside and Gautsch was carrying on a conversation with him. I could see it from the dock where I was sitting.

Q Was that before he testified or afterwards?

A It was an intermission. The defense witness was standing outside and he was speaking to him there.

Q Well, had this witness finished testifying at that time?

A After the conversation, yes.

Q No. Had the witness finished testifying at the time of the conversation?

A No.

Q How many times have you seen Gautsch talking to defense witnesses in the courtroom or from the place over in the dock?

A Quite often. Not only I alone, but the others also saw it.

Q Do you mean to tell the court then he has been coming into the courtroom and talking to defense witnesses during the recess of the court?

A Not in the courtroom, no. In front of the door.

Q How often have you been beaten since you have been arrested by the American forces, Jakuidth?

A Three or four times.

Q Now, you said that one of the assistant prosecutors slapped you on the ear. Have you been badly beaten at any time or just slapped?

A Not I - that wasn't against me.

Q Oh, somebody else. All right, what was the extent of your beatings? Were they severe or not?

A But, of course.

Q How badly were you beaten?

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A There was a Russian prisoner with him. He beat me with a club.

Q No. I mean while you were in the custody of the American forces.

A On the w r there and once in the headquarters in Naburg.

Q When was that?

A That was last year around the twenty-ninth of July.

Q You haven't been beaten since you have been in Camp Dachau, have you?

A No.

Q Now, besides Gautsch have you observed anybody else talking to the defense witnesses during intermission?

A No.

PRESIDENT: Further questions by members of the court?

QUESTIONS BY COLONEL SMITH:

Q Have you ever had any trouble with your memory?

A No.

PRESIDENT: Any further questions?

QUESTIONS BY COLONEL JACKSON:

Q You stated that you asked a first lieutenant for more money and got it. Who was the first lieutenant?

A First Lieutenant Schubert, who is sitting here in the dock.

Q When was the last time you saw him during the evacuation?

A He wasn't in the evacuation march. He never had anything to do with the camp.

Q Who heard Gautsch make the statement to Koehmer?

A One who is sitting here in the dock.

Q Who is it?

A Lipinski.

ACC LIPINSKI: That isn't right. He is crazy.

PRESIDENT: Just a minute. No comments from the dock.

WITNESS: It was another. I don't remember his name, but that is a pure fact.

PROSECUTION: I would like the record to show that it was Lipinski who made the comment from the dock to the effect that that isn't correct and that the man on the stand is crazy.

PRESIDENT: The record will so indicate, but at the same time the record will indicate the directions of the court to the individual in the dock. Does that satisfy you?

PROSECUTION: Just as long as the record shows that Lipinski denounced him as not telling the truth.

PRESIDENT: Now, at this time the court directs the prisoners in the dock to the effect that there will be no remarks at any time from the dock. Any accused will have plenty of opportunity to make any statement that he sees fit. The court wishes to assure the defendants that that opportunity will be given every defendant at the proper time, but there will be no further remarks of that nature from the dock.

Any further questions by members of the court? Colonel Skielvig.

QUESTIONS BY COLONEL SKIELVIG:

Q Did you ever have any personal differences with Gautsch?

A Never.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. MCKAY: Nothing further.

PRESIDENT: Recross. Pardon me, Doctor Wecker.

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REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Yesterday, you said that at the evacuation march the commandant of the camp, Koegel, gave the order that prisoners who could not continue the march should be shot to death.

A Yes, he gave this order.

Q Do you know on what day this order was given?

A It was given in the officer's quarters.

Q That isn't what I asked you. Not where, but when?

A That was on the day before - on a day before - when the conversations in regard to the march were carried on.

Q Can't you give us any date?

A No.

Q Don't you know when the march began?

A On the twentieth of April.

Q And how many days before that was this order given out?

A The evening before, on the nineteenth.

DR. WACKER: Thank you.

PRESIDENT: Has the defense anything further?

MR. MCKAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: Nothing.

PRESIDENT: Jakubith, do you have anything further to say to the court at this particular time?

WITNESS: I would like to beg the court to overlook this mistaken identity here with Lipinski which I made, but the word did fall. I heard it and someone there in the dock heard it. In the evening Gautsch took a walk with Roehner and said it to him then and it was here in this corridor.

PRESIDENT: Anything further?

WITNESS: No.

PRESIDENT: The court understands that the defense has finished with this particular witness.

MR. MCKAY: Finished, sir.

PROSECUTION: I would like to work on this a little.

PRESIDENT: Go right ahead, Colonel.

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q How long have you known Lipinski?

A I hardly know him at all.

MR. MCKAY: This is objected to as improper. It's not redirect examination.

PROSECUTION: No, it is recross.

MR. MCKAY: I mean recross.

PRESIDENT: Objection overruled. Proceed.

A I scarcely know him at all. I have had practically no contact with him because he was in the camp and I was in the quarry.

Q When did you first get to know him?

A I never did get to know him at all because I had nothing to do with him.

Q You have been sitting with him every day since the twelfth day of June in this courtroom, have you not?

MR. MCKAY: That is objected to as irrelevant and immaterial to any issue in this case.

PROSECUTION: I think the issue has been raised, may it please the court, by the defense and I think I have a perfect right to go to the very bottom of it.

MR. MCKAY: Well, the defense never raised it.

PROSECUTION: I think it would be manifestly unfair to present one side and not present both sides of this.

PRESIDENT: The objection is overruled. At the same time, Mr. Prosecutor, confine yourself to remarks made by the witness.

PROSECUTION: Well, may it please the court, the purpose of this is to show that this man is acquainted with Lipinski, that he knows Lipinski. He has been sitting over there in the dock with him every time this court has been in session since the twelfth day of June.

PRESIDENT: The court has no objection to questions of that nature, Mr. Prosecutor, but at the same time what the court is endeavoring to point out is that this doesn't open up the case as far as Lipinski is concerned in general.

PROSECUTION: Oh, no, sir. I am not after Lipinski on that score at all - on the contrary.

Q You have eaten with Lipinski every day, have you not, since the twelfth day of June?

A Never.

Q Well, you have been sitting with him in the dock ever since the twelfth day of June, have you not?

A In the dock, yes.

Q And there is no doubt in your mind what man in that dock is Lipinski, is there?

A I already mentioned that I don't eat with him and the most I ever do is sit here in the dock with him and have no contact with him.

PROSECUTION: Lipinski, what number have you?

ACC LIPINSKI: Twenty-three.

Q Is there any doubt in your mind that the man wearing No. 23 is Lipinski?

A I don't bother about every number. I have to look after myself.

Q You just answer my question.

A That's the number he has.

Q And you knew that when you testified that Lipinski had made that statement. Is that not true?

A No.

Q You didn't know that Lipinski is the man sitting over there in the dock who now wears No. 23 when you made the statement?

A In regard to 1941 when the three Poles were hanged and Gautsch was involved, Lipinski was not involved; the one involved was Gelhardt.

PROSECUTION: Now, may it please the court, I ask that the witness be instructed to answer the question and I move to strike the answer on the ground that it is not responsive to the question.

PRESIDENT: The motion to strike is sustained. The court directs that the witness be as specific and concise as possible in answering the questions of the prosecutor. At the same time the court cautions you that if you refuse to answer any question, the court may draw an unfavorable inference from your refusal to answer. In other words, if you refuse to answer the question the court may give an unfavorable opinion due to your refusal to answer.

WITNESS: Yes.

PRESIDENT: Proceed, Mr. Prosecutor.

Q When you stated that Lipinski was the man who knew that Gautsch had tried to influence the testimony of the witness Koehner, there wasn't any doubt in your mind that Lipinski is now the man who wears No. 23? Is that correct?

A I was in doubt.

Q You were in doubt th t Lipinski was the man?

A I am still in doubt that he is the one.

Q Well, you didn't tell the court that there was any doubt in your mind about Lipinski, did you?

A I am still in doubt. I can't remember exactly because many people said it. That goes back to the conversation because Gautsch was constantly talking to the defense witnesses out there, because everybody saw it, everybody answered it, and I don't know who exactly said it, but one person saw Gautsch talking to Koehner and I don't maintain that it was Lipinski.

Q Well, you maintained that yesterday in your testimony, did you not?

A Yes, but I didn't name Lipinski.

Q Oh, you didn't say it was Lipinski yesterday?

A No, I didn't say that he was the one who said it. In regard to another matter, I mentioned Lipinski but not in regard to this matter.

Q Did you say this morning that it was Lipinski who knew about t is matter?

A That was a mistake of mine.

Q And it wasn't a mistake yesterday if you said it. Is that right?

MR. MCKAY: The question is objected to as argumentative.

PROSECUTION: I am asking him whether or not it is a fact, whether it was a mistake or not yesterday, may it please the court.

PRESIDENT: Objection overruled.

A It doesn't depend on what I said here because Lipinski saw just the same as everyone else that Gautsch spoke to this witness. Everybody saw it.

Q You just answer my question.

A I did answer your question.

Q What was it?

A Whether I said yesterday that that was Lipinski, and I answered the question, not in regard to the point which I just mentioned.

Q Well, was there any doubt in your mind yesterday that it was Lipinski who made that statement?

A But not in regard to this matter which we have just discussed in regard to Roehmer coming in the dock, only that he saw Gautsch speaking to the defense witnesses.

Q Well, tell the court please who it was over in that dock who heard the statement made by Gautsch to Roehmer that if he wasn't careful he would end up in the dock.

A I don't know who it was who said it, but everybody heard it because he said it loudly when we were coming in. Lipinski merely said that he had seen Gautsch talking with the defense witness here in front of the door.

Q Now, when was it that this conversation between Gautsch and Roehmer took place?

A The last time when he appeared here as a defense witness.

Q Now, I am asking you specifically with respect to the conversation that if Roehmer wasn't careful he would end up in

the dock. Now, when did that conversation take place?

A Here in the corridor.

Q When?

A I don't know any more. That is a pure fact.

PRESIDENT: Just a minute, Mr. Prosecutor. Calm your voice down. No yelling at a witness.

PROSECUTION: I am sorry. I didn't mean to yell at the witness, but I will also ask the court to please instruct the witness to answer the question if he intends to answer it, or otherwise let it be known to the court that he does not intend to answer the question. This court has no power to make ~~a witness~~ accused answer the question, but I think it is certainly not behooving the dignity of this court when a witness is allowed to consciously circumvent the questions propounded to him so it is necessary to continually move to strike the answers on the grounds that they are not responsive to the questions that have been propounded.

PRESIDENT: The court at this time sees fit again to caution you, Jakubith. Be more direct and concise in your answers. The court will not compel you to answer any question, but at the same time your failure to answer the question may give the court an unfavorable opinion, or the court may take an unfavorable inference due to your refusal to answer.

WITNESS: Up to the present time I have never refused to answer. I have answered the questions as best I could.

Q All right, I will ask you this question, Jakubith. When was it that you say this conversation took place between Roehner and Gautsch in which Gautsch is alleged to have told Roehner that if he was not careful, he would end up in the dock?

A During that time when Roehmer was here as defense witness. He was here for days. I saw him myself.

Q All right, now, you tell the court on what day that took place, please.

A I can't tell you any more.

Q All right, what hour of the day did it take place?

A It was in the evening. Gautsch constantly ran around outside there.

Q The evening. What time?

A He even came into the courtroom and looked in the books.

PROSECUTION: Now, I move to strike that on the ground that it is not responsive to the question and I ask that the witness be instructed to confine his answers to the questions propounded to him.

PRESIDENT: The motion to strike is sustained. Proceed.

Q Now, at what time in the evening did this take place?

A I don't know what time.

Q Well, was it in the early evening or late evening?

A When we went to bee interrogated.

Q When you say "we", who is we?

A In the evening we are often called to our defense counsel.

Q Now, who is "we" on this occasion that you are talking about when Gautsch is alleged to have made this statement to Roehmer? Who is"we"?

A I mean that in the evening we go to our defense counsel and we see people who are standing in the corridor.

Q Did you understand the question that I asked you?

A Yes.

Q- What did I ask you?

A Whether I saw Gautsch speaking with Roehner.

Q No. I will ask you the question again. When you say "we", whom do you mean by the term "we"?

A The accused.

Q All right, then. All the accused in the dock then were present at the time that Gautsch made this statement to Roehner. Is that correct?

A No.

Q All right, then, who was present?

A One of the accused told me about it who also went to the defense counsel in the evening with me.

Q Who was that?

A I can't remember the name, but it happened here with us. Perhaps the question will come up again in court.

Q So you don't know the name of the man then who told you that. Is that correct?

A No.

Q And I thought you stated a moment ago that you, yourself, heard it?

A I never heard it originally at all. I only heard it second-hand from the one who first heard it.

Q Didn't you state that it was said loud, back there by the door and everybody heard it?

A Never.

Q So only one person heard it. Is that correct?

A One person told that to us at various times. I can't make something like that a figment of my imagination.

Q There wasn't any doubt in your mind that Lipinski was the person who told you that until Lipinski told you that you were crazy. Is that not true?

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MR. MCKAY: May it please the court, the question is objected to as repetition.

PRESIDENT: Will the reporter please read the question.

(Whereupon the last question was read by the reporter as follows:

"Q There wasn't any doubt in your mind that Lipinski was the person who told you that until Lipinski told you that you were crazy. Is that not true?"

PRESIDENT: Objection overruled.

A Lipinski merely said that he had seen Gautsch talking to the defense witness. He wasn't the only one who saw it, but the other accused also saw Gautsch talking to Roehner and that made us all indignant.

PROSECUTION: I move to strike the answer on the ground that it is not responsive to the question.

PRESIDENT: Objection sustained. Now, Mr. Prosecutor, if you want to go into this matter any further, the court will be glad to call Roehner as a court witness.

PROSECUTION: I have no objection at all, may it please the court. This matter was brought up by the defense and by the court and what has transpired here in this courtroom confirms the belief I had yesterday that this matter should not have been gone into unless it was gone to the very bottom of and ask Lipinski, whom he stated yesterday was the man who had made that accusation against Gautsch. And now it turns out that Lipinski on his own volition told this man that it was not so, that he was crazy, and I think what has transpired in that connection is characteristic of the entire testimony of this witness. Now, I have no objection to going into this thing from top to bottom and back again. That is a matter entirely up to the discretion of this court.

conversation and he told me that two days ago, i.e., the day before yesterday, Gautsch spoke to him - to Rehner - and Roehner told me also that he was very much amazed that Gautsch here under oath said that he did not know Roehner.

PROSECUTION: Well, now, may it please the court, if Doctor Wacker wants to take the stand and testify, I would like to be accorded the opportunity of examining him.

DR. WACKER: I would like to explain something else in that regard. This morning I mentioned this fact. I told about it and that is perhaps the reason why Jakubith says that he heard it from someone else.

PRESIDENT: All right. Proceed, Mr. Prosecutor.

PROSECUTION: Read the last question please.

(Whereupon the last question was read by the reporter as follows:

"Q There wasn't any doubt in your mind that Lipinski was the person who told you that until Lipinski told you that you were crazy. Is that not true?"

A I merely said that Lipinski had told me that he had seen Gautsch talking to defense witnesses, but Lipinski was not the one who told me that Gautsch had told Roehner that if he weren't careful, he would end up in the dock. That is not what Lipinski said. He is not the one who said it.

Q You mean you were not asked the question by Colonel Jackson, who was the accused who heard Gautsch make that statement to Roehner? And isn't it further true that you said Lipinski, and then Lipinski told you that you were crazy?

A There probably were two questions. One of them consisted of the fact that Lipinski, himself, saw Gautsch speaking with the defense witness, and the second testimony that Gautsch said to Roehner that if he weren't careful he, himself, might end up

in the dock, but it wasn't Lipinski who said this - and not because he said to me "he is crazy". Ha, ha, ha!

Q You mean then that you were not asked that question?

A They did ask me this question, but there was a mistake.

Q Who asked the question?

A One of the court members.

Q And it was in reply to that question as to who had heard the statement made by Gautsch to Roehmer that you said "Lipinski". Is that not true?

A But I didn't mean by that that he was the one who told me about it, as one of us told us various accused heard it. That isn't only my opinion, but others have the same.

Q That isn't what you said to Colonel Jackson, though, is it?

A No.

Q In other words you said Lipinski said that to Colonel Jackson, did you not?

MR. MCKAY: I think this is six times this question has been asked.

PROSECUTION: Well, I have never gotten an answer yet. May it please the court, I am satisfied that I have asked it more than six times, but I am also satisfied that he has never answered the question. It has been characteristic of this witness ever since he took the stand on cross-examination.

PRESIDENT: The objection of Mr. McKay is sustained.

PROSECUTION: Will you read the last question?

(Whereupon the last question was read by the reporter.)

Q You understood the question asked you by Colonel Jackson, did you not, with respect to who it was that had heard Gautsch make the statement to Roehmer?

MR. MCKAY: Just a minute. I would like to ask the reporter to go back and check Colonel Jackson's original question.

(Whereupon the reporter read the following questions and answers:

"Q Who heard Gautsch make the statement to Roehner?

A One who is sitting here in the dock.

Q Who is it?

A Lipinski.")

PROSECUTION: That's all. I will let him go.

MR. HALL: What did the prosecutor say?

PROSECUTION: I said, "That's all. I will let him go".

PRESIDENT: Any questions by members of the court? Apparently not. Defense?

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Didn't Lipinski tell you that it was somebody else and not Roehner that he saw?

PROSECUTION: Now, I object to counsel leading the witness.

PRESIDENT: Objection sustained.

MR. MCKAY: That is all.

PRESIDENT: Has the defense anything further? The court understands that the defense has finished with this particular witness.

MR. MCKAY: Yes, sir.

PRESIDENT: The witness is finished and will resume his place in the dock.

The court will adjourn until 1:30 this afternoon.

(Whereupon at 1200 hours the court recessed.)

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AFTERNOON SESSION.

(Thereupon at 1340 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowits who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Col. Wilson, Maj. Oeding and Dr. Engelhorn who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: The court will call Edy Roshner as a court witness.

The court will take a short recess in place.

(Thereupon at 1343 hours the court took a recess x in place)

(discussion off the record)

(Thereupon at 1350 hours the court was opened)

PRESIDENT: The court will be opened. The defense proceed.

MR. MCKAY: Let the record show that the witness which the court requested, Edy Roshner, is not available at the present time but will be made available as soon as he returns. He is now in Munich.

PRESIDENT: All right. Defense proceed.

MR. MCKAY: The accused Karl Mathoi desires to take the witness stand on his own behalf.

PRESIDENT: Mathoi, the court understands that you desire to take the witness stand in your own behalf. Is that correct?

ACC. MATHOI: Yes.

PRESIDENT: Proceed.

KARL MATHOI, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. M'KAY:

Q Mr. Mathoi, are you one of the accused in this case?

A Yes.

Q Were you a prisoner in Flossenburg Concentration Camp?

A Yes.

Q Will you explain to the court how it came about that you became a prisoner in the concentration camp.

A Yes. In March, 1933 I was arrested for the first time because of anti-Nazi attitude and here is the arrest order of 1933. I would like to explain something to the court in regard to these notes. I took down some notes here and respectfully ask the court's permission to make use of these notes so I won't forget anything.

PRESIDENT: The court understands that that's a memorandum made by yourself?

ACC. MATHOI: Yes.

PRESIDENT: In your own handwriting?

ACC. MATHOI: Yes.

PRESIDENT: Purely in the form of notes? Purely notes?

ACC. MATHOI: Yes.

PRESIDENT: (after inspecting Mathoi's notes) The court has no objection that the witness refer to the notes from time to time during the course of his testimony.

PROSECUTION: May it please the court, in order that the reviewing authority may understand what is in the record I suggest that they be incorporated as a part of the record as an exhibit to his testimony.

ACC. MATHOI: Yes.

PRESIDENT: Proceed.

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MR. M'KAY: May it please the court, these are merely notes to refresh the recollection of the witness. They do not become part of the evidence and are not exhibits.

PRESIDENT: That was in the form of a request, Col. Benson?

PROSECUTION: I will move the court to do it, may it please the court. I first request and if that is denied I will move the court to do it on the ground that it is not shown that his memory needs any refreshing at all and before a man has a right to refer to a memorandum it is obvious that it must be shown his memory needs refreshing by some independent source and that being true that source is usually made a part of the record so that the court or the reviewing authority may ascertain just exactly what it was from which the witness testified. There is ample authority for that.

PRESIDENT: The request of the prosecutor is denied. The court feels that the notes indicated are simply a memorandum to refresh his memory. The court grants the witness the right to do that. The motion of the prosecutor is likewise denied.

QUESTIONS BY MR. M'KAY:

Q Mr. Mathoi, I hand you a piece of paper which has been marked Defense Exhibit 10 For Identification and I ask you if that is a slip of paper you just handed to me.

A Yes.

Q Will you just explain to the court what that is.

A That's a protective custody order of 1933.

PRESIDENT: What's the number of that, Mr. M'Kay?

MR. M'KAY: Exhibit 10.

Q This was the order which was given to you prior to the time that you were sent to the concentration camp?

A Yes, I was arrested on March 15, 1933 and was then taken into protective custody and was sent to Halle in the middle part of Germany and on April 15th I received this order of arrest when I was in protective custody.

Q Will you read what that says to the court.

A (reads" "Halle, April 15, 1933. The President of Police. On the basis of paragraph 1 of the decree of the President of the Reich for the protection of the people and the state of the 28th of February, 1933, RGB 1 IS 83, you will be taken into police custody for the purpose of the upkeeping of the public security and order until further notice. Signed by the President of Police."

Q Mr. Mathoi, have you had this document in your possession continuously since the time you received it?

A No.

Q What is the last time you had this in your possession?

A 1937, before I was arrested.

Q Have you from 1937 on, have you had this in your possession?

A No.

Q When did you get it again?

A When I returned home on August 7th last year.

Q Have you had it in your possession since August 7th of last year?

A Yes.

Q And you have had it constantly in your possession from that time on; is that correct?

A Yes.

MR. M'KAY: At this time, as part of the testimony of this accused, the defense offers into evidence the Defense Exhibit 10, which is the protective custody arrest order of this accused.

PRESIDENT: The court will receive the Defense Exhibit #10 as evidence and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit #10 For Identification was received in evidence as Defense Exhibit #10 and is attached hereto and made a part of the record.)

Q Mr. Mathoi, were x you ever tried for any kind of an offense prior to your entry into a concentration camp?

A 1937.

Q - Mr. Mathoi, I must caution you to speak loud so that everyone in this court room can hear you.

A Yes.

Q For what were you tried in the year 1937?

A On April 27, 1937,I was arrested because of illegal activities against the government at that time. I have to mention that I was released from the protective custody in October of the year 1933 and then returned to my home in Fuessen.

Q In April, 1937, what was the charge upon which you were tried?

A Because of preparation for high treason.

Q Were you sentenced at that time by a German court?

A Yes.

Q What was the court which sentenced you?

A The special court with the High State Court in Munich.

Q What sentence were you given as a result of that trial?

A Because of witnesses' statements and my constant denials because I didn't want to drag other people into this, I was sentenced to three years in the penitentiary. Before that I had been treated by the Gestapo.

Q When were you sent to the penitentiary?

A I was sentenced on August 18, 1937, and was then taken to the penal camp Moor near the Dutch border.

Q How long did you remain in Moor?

A Three years, until 1940.

Q Prior to this trial in 1937 had you ever had any criminal proceedings against you prior to that time?

A No.

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When did you come to Flossenburg Concentration Camp?

A October 7, 1943.

Will you explain to the court the occasion for your arrival at Flossenburg on the 7th of October, 1943.

A Yes. Two days before I had finished my sentence in Moor I was informed by the camp commander that by orders of the Gestapo I would not be released but remain in protective custody because danger existed, because of investigations, that I would again take up my political activities against the state. I was taken to Dachau from Moor and was put automatically into the punishment company for a half a year because of the sentence I had served.

How long did you remain in Dachau?

A Until August, 1942.

What happened to you then?

A Then I was sent to Auschwitz with 14 other people.

Q How long did you remain in Auschwitz?

A In Auschwitz until October, 1943.

Q Will you explain to the court how you were taken from Auschwitz to Flossenburg.

A Yes. In Auschwitz I had picked up a connection with a Polish woman. I was reported and was summoned before the political department and I was sentenced to half a year's SK and received 134 strokes with a stick.

Q What do you mean by SK?

A Punishment company. In September, 1943 I was taken away from the punishment company. This was one kilometer away from the main camp; it was in Birkenau. In the main camp I was told that I would be put under quarantine for four weeks. Upon my questions why and for what purpose I was told that I would be sent on a transport. The sergeant came to me in October and told me that I would have to go with him to Flossenburg that day. I asked why do I have to go

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to Flossenburg by myself, alone, and he said that he didn't know that. We traveled one day and one night until we arrived in Flossenburg at night, 11 o'clock. There the SS sergeant who had brought me there delivered me to the blockleader's house. The next morning I was called by the blockleader and he took me to headquarters.

Q What happened to you when you were taken to headquarters?

A The sergeant went into a room which had a sign "Kommandant" and probably reported there that I was here. The sergeant called me in and then Koegel who was sitting about four meters away from the door at his desk called me over to his desk. Usually it was forbidden to approach an SS man beyond the distance of three meters.

Q Will you describe to the court just what Koegel said to you at that time.

A Yes. Koegel asked me "Do you know me?" I looked at him first and then I said "Yes, you are Koegel, Max, from Passau". Then Koegel said "Don't be so fresh. There is no Max here. You are a prisoner and I am the Kommandant." I didn't mean to be fresh at all because I came from a town where everyone is familiar with the next person and friendly towards the next person and I didn't know the man at all, I had never talked to him before. Koegel then addressed me with "du" and he asked me "Do you know why I had you come here?" I said "No." He said "I was on furlough in Passau this summer and your brother asked me to do something for you and because your brother made a decent impression on me I requested you through the SS Main Economics Office in Berlin for you to come to Flossenburg. I don't have a compoldest here and you will be the compoldest." I told Koegel "Mr. Commandant, I am not capable of doing that job". He said "You have been in camp long enough. You don't have your own wishes, you do what I tell you to do". Then I asked him to

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give me a chance to look over the camp, how everything works, how everything develops and goes there. He said that he would call me back, he said yes, he would call me back after a few days. At that time my head was shaved from Auschwitz and he gave me permission to grow my hair back and also gave me my watch back that had been taken away from me. After a few days Koegel called me back and said "Now I have waited long enough, you will be the campeldest." I said"I can't do it, I can't take this job. For one thing I am nervous, I had a nervous breakdown in Auschwitz and just don't have the aptitude." He said "I can see that you are still as stubborn in your political attitude as you used to be. I am already regretting having brought you here and having promised your brother that. I have a good mind to send you back where you came from." I said "Well, for one thing

I would rather do that." Keegal became red in his face and yelled "You are a no-good man" and took his glass ashtray and threw it against my chest and yelled "And now you do what I want you to". There was no other choice but to take the job of campoldest. Keegal told me "You will have your own bed and you will receive one more portion of food daily than the others" and then told me the following duties which I had to carry out as campoldest.

Q. Will you explain these duties to the court.

A. Yes. He said "Everything is known to me because of my "V" men." "V" stands for trustees. "I know exactly what is going on in the camp." He said "There is an epidemic in that camp of homosexuality. Besides there is black marketing going on and crooked deals, which I want discontinued. I want reports about everything that goes on in the camp and about everything you hear about that goes on outside of the camp." and he said "If I ever get a report about you taking up your old political activities and tendencies with other prisoners you are going the same way many others have x gone before you, namely,

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you will go to the crematory, because I won't take anything from you." Then I received orders to report to Capt. Fritsch, the protective custody camp leader. From my arrival until the day that I became campelbest prisoners already told me that the camp leader Fritsch and Koegel were more or less enemies. I went to Fritsch and he also called me "du". That was customary in the concentration camp. It very seldom happened that a prisoner was ever addressed as "Sie".

Q What is the difference between the addressing of "du" and "Sie"?

A If I as a stranger address a strange man with"du"that's impolite, or as it was in camp it was a contempt of these people.

Q When you reported to the prison compound leader what did he tell you?

A Fritsch said to me "The commandant had you come here, huh?" I said "Yes." Koegal---I omitted that---told me "Don't you ever dare to tell anyone in that camp that you know me from Pueschen or if I reprimand you or beat you that you ever write that home. You will write a letter to your brother immediately that you are now in Flossenburg and that everything is fine." I wrote that letter because I knew that Koegal had made arrangements with the post office that this letter would be immediately delivered upon the arrival. Later on I smuggled letters out of the camp by way of SS Sgt. Hackmeier and the prisoner Siemer who worked at the railroad station.

Q Mr. Mathei, so that the court may understand your position in the camp, I want you to explain to this court just the duties that you were required to perform during the period of time that you were a campelbest.

A Yes. It was my job to see to it that the camp was cleaned, that no dirt was around the camp, that the prisoners would take their

baths weekly, that they would receive soap and clean clothing; I had to get up for them at 4:30 because I had to awaken the prisoners by sounding a whistle; it was my job to go to bed the last man in camp and to turn off the lights on the roll call square on the pole there and to sound another whistle at night to make the prisoners go to bed; besides that it was my job to take several checks through the camp at night because people would break into the kitchen, the potato storage, the supply rooms, and into the canteen and into the dry room where the dehydrated vegetables were and the onions.

Q What responsibility did you have for the discipline of prisoners in the camp while you were campeldest?

A I had two possibilities. Since all the denouncers and SS spies watched everything that was going on in the camp I had these two possibilities: either I would follow strictly the orders and rules laid down by the SS, the commandant, and the compound leader and make a report about any violations or anything that was done against camp rules, or else I would just hit a prisoner. It was a principle with me to never make any report of any kind to the SS or play anyone into the hands of the SS but there were cases now that prisoners would steal from other prisoners or that prisoners would run down to the disinfection section and would pick up the lousy clothing, clothing filled with lice, such as underwear or sweaters or trousers, take that and run back to the blocks; they formed groups and waited for the time of the food distribution and tripped the men who were carrying the kettles or threw them down. Each kettle had 45 liters in it. Five or six men would get something from the food that had been spilled on the ground and the rest of it, of course, was spoiled because you couldn't scrape it up any more. There was a black market for a long time between the laundry and the potato storage and between the canteen and Block 1 and 2 and the kitchen. The things that were sold there were the things

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that had been stolen from other prisoners. Sold were 1/4 of a loaf of bread, the daily ration of a prisoner. The price for that was two cigarettes or a stick of chewing tobacco. They sold slippers, socks, trousers, shirts or any kind of laundry, things that had been stolen from others. One could yell or cry or talk as much as one wanted to, it was without any success, and I could chase them away here and they would run around and be back of the kitchen or in the roll call square and I could move ten meters and chase them away and there they would be again. The so-called denouncers, of course, watched these things, too. Had I not done something at all these people, of course, would have reported me to the compound leader or else to the commandant that I did the same thing that the thieves and the black marketers did and didn't do anything against them. Until January of 1945 the prisoners still had a so-called head count roll call morning and night.

Q Mr. Mathei, during the time that you were counseldest what color of triangle did you wear?

A There was a mistake on my part: the 1st of January, 1944, the head count roll call. Would you please read that question to me?

(Thereupon the question was read by the reporter)

A Red.

Q Mr. Mathei, you have stated to the court that you either could turn in a report or beat a prisoner. Will you explain to the court just what would happen to a prisoner had you turned in a report on him.

A The very least, one week of arrest and 25 beatings. The first room in Block 1 right next to the barbed wire was the music room and next to that the post office where the prisoners received their packages that had been sent by their relatives from home. After the war had begun and lights could not be turned on at night during the dark hours because of danger of air raids prisoners attacked other prisoners who had just picked up their

packages and were going around Block 1 to get back to their own blocks. Three men would attack this prisoner with the package, beat him to the ground and take his package away from him and kick him with their feet on top of that. I can't give you the exact number of such cases but I should say, according to my memory, at least one dozen. And the first thing, of course, these prisoners would cry "Help, campeldest, help, help!"

Mr. Mathei, you said that the least that a man could have gotten if you had turned in a report on him was a week in arrest. What would be the maximum that could have happened to him if you had turned in a report on him?

A In such cases as stealing of packages or tearing of blankets, if I would have reported things like that, there was only one thing: the gallows. For one thing that was sabotage, and for the second thing that was attacking another prisoner at night and stealing from him, and there was only death by hanging.

Do you know of any actual cases where men who had had reports turned in for these offenses were actually hanged?

A Not during my time because I didn't report anyone and if I found out that a blockeldest wanted to report someone, this report had to go through the clerk's office and whenever I saw that report I would tear it up, and it has always been my principle and I told this to the blockeldests when I held a meeting with them I told them "Don't you ever dare to make a report and go over my head, I just won't have that".

Q Just what duties did you have in the clerk's office as campeldest?

A I had to see to it that the blockeldests appeared in the clerk's office at least one hour before the roll call in the morning and at night and handed in a strength report from their blocks. Of course that was the time when I would also receive the news, things about the prisoners stealing in the block or else leaving the

block at night and going to some other place, and I would hear about that in front of all the others.

Q Mr. Mathei, what were your duties with regard to the roll call itself, as campeldest?

A I had to sound a whistle for the prisoners to fall in, I had to sound the whistle whenever the roll call leader or another SS man would tell me to do so.

Q Mr. Mathei, you said that for disciplinary reasons you had beaten people. I want you to explain to the court what you mean when you say you beat people.

A Yes. If I caught someone stealing food or stealing from a comrade, if I caught him doing so or caught him right after he had done so, I would of course beat him up, but not with a wooden leg, not with a leg from a chair. If I had done that, as Gieseeki reported here, I would have wound up in the bunker right away. I had a rubber hose and I also carried it with me in the evening because when I arrived several people told me, told me that several blockeldests--and I would like to mention that neither Gieselman nor Buttner who are in the dock as accused here were blockeldests at that time---these were men, there were a few of them among the blockeldests, which in our language you would call wild whoremasters, and they said to me: "If you think you can decrease our privileges here and do anything against our 'penyemnis',(that was the name for the homosexual friends they held), we'll beat you to death one of these days in this camp". I had such a contempt for these people because in my own feeling and opinion I could not understand how a man, although he had been in camp for long years, could touch another male in that way. Another thing that was extremely bad was that morally these young men would

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down and, secondly, it was bad also for the other prisoners because these people who held such a young boy would steal things from the other prisoners and would feed these young fellows with it.

Q During the time you were compeldest I want you to explain to the court how the prison compound leader Fritsch treated you.

A As I mentioned before Capt. Fritsch was an enemy of the commandant and, of course, since these two people had been fighting with each other I was the one to take the beatings for this fight. Koegel gave such orders and Fritsch gave such orders. There existed an order that all heads would be shaved every six weeks, with the exception of the Germans. In the first 14 days they cut a so-called 'autobahn' across the head with a machine; after another 14 days the same thing again through the center; and after six weeks they would all be taken off again. And that's the way it was and that's the way it had to be done all the time. Fritsch gave me the orders: "I want you to be at that gate every day when these prisoners march out and march back in and if they don't take off their caps and straighten out you have to kick them in the ass and if I only spot you once committing any kind of a negligence you'll get what the others were supposed to get". After he had given another order to shave the heads again I relayed this order to the blockeldests. The next morning all prisoners marched out of the gate with shaved heads. Fritsch called me immediately, after I had not been at the gate as he had ordered me to, beat me in the face, around the face with his gloves and asked me "How come the prisoners are baldheaded?". I said "Captain, you gave me the orders yesterday" and he said "Shut up, how can you make a liar out of me? If I say it's not so it's not so." When this yelling was going on the commandant came. Fritsch reported

(Mathei-direct)

that I had neglected to follow an order by the Reichsfuehrer of the SS, that I had given an order to have the prisoners' heads shaved when it hadn't been time to do it, because the hair was collected and sent away and used for something, I don't know what for.

I ought to describe Fritsch. I would have to say something which might not sound so good but I have to say that, otherwise the court won't get a true picture of this man. In the morning when the prisoners marched out and Fritsch spotted a young Russian or Pole who was rather good looking, shall we say handsome, he called him to the stand at the blockleader's room. He tapped his ass with his hand and said "What a nice handsome fellow you are. I'm just in the mood for you". I have never seen such a sadist and that's what he was, in my opinion. He was sexually abnormal, in my opinion. That's not the only thing. He asked this fellow immediately: "Who feeds you?". After he had taken two or three such young fellows out of the columns and after every detail had left he took them to the supply room himself and gave them the worst clothes he could find there. Then I or someone else had to take them to their work place where they belonged. New arrivals were taken to the bath immediately to be delousedd and their hair would be shaved by the barbers. The Maj. Schnabel also was in the bath because he had to inspect them. Fritsch said, when he saw a prisoner bent over and the barber shaving his hair, "Look, doctor, that would be something for me my sexuals in the camp, now they could play". But I wouldn't like to repeat these expressions here, that's too bad. Whenever a horsedrawn cart had gone through the camp and the excrements of a horse would be there he would call me over and make me carry it with my hands ten meters and back twice so it would gone.

Fritsch told me eight or fourteen days after I had become the compeldest "I have heard already that you are a bad man. Up to now I haven't received any report from you". Because these denouncers would go to him and tell him such and such has happened but the compeldest evidently has not made any report. Fritsch didn't only beat me once, he beat me twice with his riding crop. In the winter of 1943, in November, potatoes were unloaded on the railroad station of Flossenburg. Because of the negligence of the Economic Section leader, Capt. Kirsamer, these potatoes were left there longer than necessary and were frostbitten. I should say that 60% had rotted. After they were stacked behind the laundry. The windows and the door of this potato barracks were broken into every night and the prisoners picked up these potatoes. Fritsch, of course, heard about this. I had glass put into the windows every day and when it was too much for me I had barbed wire put on the windows and the next day the barbed wire was gone and the door and the windows were broken again. Fritsch gave me the orders to stand all night in this barracks with the rotten potatoes and to watch out for the next thief. I didn't have any interest to stand in this stinking barracks and, besides, it was too cold, and after the door had been broken again, the next day Fritsch gave the orders to the roll call leader to lock me into the shack that following night and to release me only at 11 o'clock. That night, through the blockleader --he evidently assumed that no one would come after 11 o'clock-- Sonath locked me in. It wasn't long after 9 o'clock, after the whistle had sounded for the prisoners to go to bed, I was standing in that shack and I was cold, the door was opened,-- and before that I had heard that someone was trying to force the door open--all of a sudden the door flew into the inside, but because there was a blackout I couldn't see who it was. I shut the door again because, of course, I was mad, very mad, and I heard that

with these so-called "V" men during the time you were compeldest.

A I didn't have any connection whatever with these "V" men

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someone was yelling in pain. I ran outside and I saw that a prisoner was there holding his arm. He was standing right next to the door and he had a fractured arm, I broke his arm with the door. I went to the hospital that very night with this prisoner and summoned the capo Rueckert, the hospital capo. I asked him to immediately x-ray this man because I wanted to see whether it was a fracture. The result of the x-ray was actually a fracture. I said "You will have to keep him here until he is well again". Now, to save the blockeldest trouble and myself trouble I had to run there at night and to report to him that one of his prisoners was in the hospital because otherwise the roll call would not have been right in the morning. I went back down to the barracks and remained there. At about 11 o'clock the blockleader came and said to me "Well, the door is open again". I said "Yes, it was forced open". "Who broke it?" "A prisoner", I said. He said "Who was that?" I said "He ran away from me. I don't know at all" The next morning this blockleader reported it to Capt. Fritsch. Fritsch beat me in the neck twice with his riding crep for that. He made a terrible scene in front of the other prisoners on the roll call square and he said that I was the biggest idiot and the yellowest coward of any campeldest that he had ever had. Fritsch came to me and said "Tonight there will be two public executions on the roll call square". He said "The gallows will be ten meters away from the main pole." I said "Well, who is going to hang this prisoner?" I thought Fritsch wanted to jump in my face when I said that. He was all enraged and said "How can you ask such a stupid question? That has always been the job of the campeldest". I said "Captain, I don't do that though". He said "Do you know what this refusal can mean?" I said "Yes". He said "Do you know that if I make a report to Berlin you will be hanged?" I said "I know that! And despite that you don't want to do it?" "No", I said.

(Mathei-direct)

He said "But these are criminals". I said "I don't care, I'm not an executioner and I don't want to become one." He kicked me in the buttocks with his boots and threw me out. He said he would report it to the commandant. In the evening the scene occurred that has been described by the witness Stefflinger. The commandant gave orders to me to hang these two prisoners. I said "Mr. Commandant, I can't do that". He said "We will talk about that tomorrow. I will keep you there where you belong" and Koegel had me called the next day. The prisoners were hanged by somebody else. The prisoners were hanged by the blockaldeute Broeders and Dietrich. Broeders had been an SA lieutenant in former times and offered himself to carry out one execution.

PRESIDENT: The court will take a half an hour recess.

(Thereupon at 1500 hours the court recessed)

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(Whereupon at 1535 hours the court reconvened.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowitz who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Col. Wilson, Maj. Coding and Dr. Engelhorn who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski and Oswald who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of direct examination. Mr. McKay.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. MCKAY:

Q If it please the court.....Mr. Mathoi, I want you to explain to the court how Commandant Koegel treated you while you were the campeldest.

A For one thing, Koegel told me that I should not dare to tell anyone in camp if he should reprimand me or hit me. When I stepped forward when I refused to execute these people he hit me immediately in the face with his fist. He told me that if anything of that nature would happen again, that I embarrassed him in that manner, he would kill me immedi tely himself.

Q During the course of your testimony prior to the recess you spoke of "V" men. Will you explain just what relation you had with these so-called "V" men during the time you were campeldest.

A I didn't have any connection whatever with these "V" men

because they had been described to me by the others as so-called trustees and there were also SS men who informed us about these people, who informed prisoners and myself. There were SS men who talked to prisoners once in a while or gave them some bread, and these people saw that and reported them to Fritsch just like they would report things about other prisoners. I should like to give the names of the "V" men whom I knew to the court. That was the blockeldest Breeders, Obercapo Pemstein, a Russian officer, a former German colonel Raps, the orderly of Capt. Fritsch, Gottschalk, the blockeldest Dietrich and the blockeldest Albrecht, a former colonel and burgemaster of Bad Wiessee, as well as a Russian colonel and capo of the horse stables Nikolai Nevidaredeff, and Walter Ott from Heidelberg.

Q During the time that you were campeldest where did you live in the camp?

A In Block 1.

Q Will you describe for the court as best you can the various divisions of Block 1 during the time you were campeldest.

A I had mentioned before that Block 1 was quite near to the barbed wire, that the first room was the music room; the second room was the parcel post office; the third room was the bedroom of the campeldest, of several clerks; the fourth room was the camp clerk's office; then the lavatory and the washroom, and prisoners lived on the other side. Not to be incorrect I estimate that 30% foreigners and 70% Germans lived in Block 1 when I arrived there. Mainly all of the kitchen personnel slept there up to the year 1945, several capos including Nevidaredeff and Pemstein. In the year 1944 the picture changed considerably. You could see them that 50% foreigners were there and 50% Germans.

Q Mr. Mathei, I call your attention to Prosecution's Exhibit 5 which has been introduced into evidence as a plan of the camp at Flossenburg and I ask you to come over here and indicate for the court Block 1, where you slept and where the clerk's office was.

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(Thereupon the accused Mathei approached Prosecution's Exhibit 5.)

A Here was the music room (indicating), here was the parcelpost office (indicating), here was the room for the campeldest and the clerks (indicating) and then there was the clerk's office, camp clerk's office. This block was,as well, divided into two parts as all the other blocks in camp, only that the bulk of the prisoners slept in the right wing and it had two entrances as well; and about here (indicating) was another entrance for the music room and the parcelpost office.

Q Let the record show that the witness has indicated a block with the letters BLK in red and a Roman numeral one as being the block which was occupied by the blockeldest and that housed the music room, the post office and the clerk's office on the left side, and on the right hand side was the room where the prisoners slept.

Now you have spoken several times in your testimony about the roll call plats. Will you now indicate that on plan 5 for the court.

A The roll call square started here (indicating) with the wire, went around this way up to this (indicating), past the kitchen, and there was another fence here (indicating) going down and past the laundry and over to Block 19 and to the fence again.

Q Let the record show that the witness has indicated with the pointer that the roll call plats started at the fence, followed along below Block 1 and Block 5 which is designated with a figure 5 in black and the word "Kitchen" in red, and down to another block,directly under the block marked five, which is marked with the figure 4 in black and the word "Laundry" in red, continuing to the left and in front of the block designated as Block 19 in red, to the fence at the extreme left of the block which is designated as Block 19. The witness indicated a fence running from Block 5 in black and the word Kitchen to Block 4, to the block designated with the number 4 in black and the word Laundry in red appearing on the right end of both blocks.

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Now you stated that for a time there was a head count at roll call. Where were these roll calls conducted where there was a head count?

A Down here (indicating) on the roll call square. The men had to get into formation in front of their blocks and then marched down to the roll call square.

MR. M'KAY: Resume the witness stand.

(Thereupon the accused Mathei resumed the stand)

Q As the campeldest, to whom were you responsible for seeing that the roll calls were carried out?

A Each blockleader, the roll call leader, and to the campleader. I didn't take the roll call myself. All I did was blow a whistle whenever I was told to, so the blocks could march down to the roll call, and then the blockleaders came and counted the people whom they had in their respective blocks after they had received the reports from the blockeldest and, in turn, reported to the roll call leader. Of course it happened now that prisoners went to bed in the block or else hid deliberately so that when all the others were in the roll call square they could go through the lockers of the other prisoners and steal and then it took quite some time before the prisoner was found because, until he had been found, the others were not allowed to leave the roll call square. There were ex people who were so inconsiderate that they had the others look for them three hours. When I arrived at Flossenburg whenever a prisoner had escaped on the outside, that is, outside of the barbed wire, the other prisoners would not have to stand as long because then one definitely knew this prisoner had escaped and he was not present because each detail was exactly counted and registered at the blockleader's room.

Q You have spoken of a rapportleader and blockleader. Will you explain to the court just what people served as rapportleaders and blockleaders.

A Blockfuehrers as well as the roll call leader were both SS men. The blockleader could be a private or could be a technical sergeant but I only knew one roll call leader who was a sergeant; they were mostly technical sergeants or first sergeants. There was a desk on the roll call square which was carried out every day from Block 1. The roll call leader stood there with a list. The blockleaders went to the desk and reported the strength or status to the roll call leader, then the campleader arrived and the roll call leader would have to report to the campleader. In January this troublesome thing ceased. From then on the capos were busier, as well as I and the blockeldests. Only each detail leaving the camp was counted. But because of this missing morning roll call the blockeldest was often incapable of being informed about the strength. It happened then that sometimes prisoners would leave his block during the night. This prisoner would be hiding in some other block and he had stolen there, because at night time they only went to other blocks to steal. That, of course, was a difficulty for the blockeldest as well as the clerk because this prisoner had to be found. Whenever a detail left they were exactly registered as to their strength and this report went to the kitchen immediately and feed was prepared, the breakfast as well as the lunch, accordingly. The following were excepted from the reception of feed: blockeldests, block clerks, the prisoners' clerks in the prisoners' clerk's office, male nurses, doctors, clerks and patients in the hospital, and I, myself. For that I received a double ration at night. That was the only advantage I had as a campeldest and that I slept in a bed by myself. I received, as well as the other prisoners, sometimes soup in the morning, otherwise coffee; at noon time I had the same as other prisoners but I didn't eat it; at night I received the same ration as the other prisoners except for the double ration, for the double day ration of bread and margarine or sausage. For that I was scolded

every day and b aten every day and had to get myself beaten up by the commandant Koegel and Fritsch. I would like to explain another incident here. Prior to coming to Flossenburg I was a prisoner just like any other prisoner. I often starved but could never get myself to look through garbage cans or steal bread from my comrades. There were prisoners who received the same ration as the others but they all went through all the garbage cans they could possibly find at the hospital or any other place, would dump these out and go through it and would eat the rotten garbage that was in it, and sometimes prisoners, and that could not be avoided and that also happened at times because those rotten potatoes which I mentioned before were put into the food, the greatest part of them, by orders of Capt. Kirsamer --this and the drinking of cold water and, besides, the eating of the rotten things from the garbage cans, the colds caused by standing in the rain, caused diarrhea with a large number of prisoners. When a man could not hold out, and that happened often, he would relieve himself into his drawers or into his shirt; but these clothes were not, as ordered, given to the blockeldest or taken to the laundry, they were either thrown into the latrine or else into the ashcans. These garbage cans were inspected in the morning either by Fritsch, as long as he was there, because they were dumped into a wagon on the roll call square, or, after Fritsch had left, by technical sergeant Kuebler and commandant Koegel. If the inspecting officer would find such clothing or beer bottles that had been used by prisoners to relieve themselves into them at night time the campeldest would be called as well as all the blockeldests and all the room orderlies, they were all called to the roll call square. Everyone would receive some in the face with the remark that a report would be made the next time and 25 beatings. But all the talk was

(Mathei-direct)

given for nothing because it happened again at all times.

Q ...ring the time that you were compeldest what was your relationship to the blockeldests?

A I had to relate to the blockeldest whatever I had been told by the roll call leader or Fritsch. Besides that I had to stand at the kitchen at noon time when the food was picked up and see to it that every block got the right amount of food. I had to sound a thistle whenever it was time to pick up the food; this sound I was told to give whenever the roll call leader or the chief of the kitchen, the SS sergeant, told me to,in such instances as have been described: thefts of bread,or when someone broke into a building at night time, or the tearing up of blankets, clothing that had been thrown into the latrine or dumped into ashcans on the roll call square; incorrect marching, marching out or marching back in as had been required by the SS, caused that all the blockeldests, the capos, and the compeldest were drilled on Sunday. I always got the worst deal because I always had to account--- this Capt. Fritsch demonstrated chicanery to me until I didn't know where to go any more. This Fritsch drove me to desperation so that I went to the laundry,to Sgt. Mueller who was standing there at the steps, and I begged him to shoot me to death. Mueller looked at me speechless and asked me whether I was crazy, to get him to shoot me. I told him that he couldn't tell me I was crazy but that he was crazy himself. I said "If you don't have the courage to shoot me from the front, do it from behind" and I turned around. I have to add something else about Fritsch. The public whippings took place until the winter of 1943 in the courtyard of the arrest building, after working hours in the evening. The blockeldests in turn would be designated by the

roll call leader. Sometimes it only happened once a week, sometimes twice a week, that these beatings would take place but then there were always four or five or six or seven prisoners.

Fritsch called me because of such an incident and told me to go to the arrest building courtyard with him. This wooden horse was in the courtyard there. Fritsch told me: "Campoldest, today you will beat". I said "Captain, I can't do that because I never administered any beating over the wooden horse." Fritsch said "Bend over it" and hit me several times with his whip and then he said "Now you can take off" and some more dirty expressions. Up to this incident I had asked Fritsch three times at least as well as Koegel at least three times to relieve me of this job. Koegel said "That's out of the question" and Fritsch said "You stay until you croak. I'll get you there where I want to get you". And I never passed up an opportunity to ask for my relief.

Q How long did you remain as campoldest, Mr. Mathei?

A From October until March, 1944.

Q October of what year?

A October, '43 until March, '44.

Q Will you explain to the court the reason that you were no longer campoldest after March, 1944.

A Yes. One reason was that I had never made any report although I had been requested to several times and Koegel and Fritsch had beaten me because I allegedly had supported the prisoners, disregarding the orders of the SS, and I saw to it that the prisoners got something to eat. They never cooked so little food in the kitchen as that 50 or 100 liters wouldn't be over the normal camp strength. Several kettles of the surplus food were sent to the stone quarry and two or three kettles were standing in the kitchen and I asked the kitchen cops for that for the people who returned at night. I

personally distributed these kettles in the evening in front of Block 1. I didn't succeed the first few times because the prisoners just rolled over me and the kettles; the kettle was gone and the prisoners, of course, didn't have anything. I called to three prisoners from Block 1 and asked them to maintain order there so that I could hand out the food. Up until half of the kettle was gone I was able to distribute it in an orderly manner but when I was deeper down with my ladle in the kettle these prisoners would just fall over the kettle and me, not considering the other people who were orderly. I was so enraged by this inconsideration that I beat. Because whenever such an attack took place either on the black market or during food distribution or whenever any crowd assembled, the blockleaders could see that from the blockleaders' room and would always yell and ask what was going on and reported these incidents to Fritsch the next day and Fritsch reported this to the commandant and I was called and Koegel as well as Fritsch told me if at any time any such assembly would take place again, such an assembly that looked like mutiny, I was to report to the blockleader's room immediately and that he would see to it that such a thing would not happen again. I said to the commandant, I said "Commandant, how can I go about it? What can I do in such a situation? I don't know what to do." He said "You have to do it as I have ordered it and then they will shoot into that bunch."

Q When were you actually removed in March, 1944?

A Fritsch left the camp the beginning of March and in the middle of March I was relieved because of the following incident: After all details which went out every day had been working about an hour the sergeant from the Economical Section came and told me that he needed 34 men for a wood detail. I went to the kitchen. First I went

personally distributed these kettles in the evening in front of Block 1. I didn't succeed the first few times because the prisoners just rolled over me and the kettles; the kettle was gone and the prisoners, of course, didn't have anything. I called to three prisoners from Block 1 and asked them to maintain order there so that I could hand out the food. Up until half of the kettle was gone I was able to distribute it in an orderly manner but when I was deeper down with my ladle in the kettle these prisoners would just fall over the kettle and me, not considering the other people who were orderly. I was so enraged by this inconsideration that I beat. Because whenever such an attack took place either on the black market or during food distribution or whenever any crowd assembled, the blockleaders could see that from the blockleaders' room and would always yell and ask what was going on and reported these incidents to Fritsch the next day and Fritsch reported this to the commandant and I was called and Koegel as well as Fritsch told me if at any time any such assembly would take place again, such an assembly that looked like mutiny, I was to report to the blockleader's room immediately and that he would see to it that such a thing would not happen again. I said to the commandant, I said "Commandant, how can I go about it? What can I do in such a situation? I don't know what to do." He said "You have to do it as I have ordered it and then they will shoot into that bunch."

Q When were you actually removed in March, 1944?

A Fritsch left the camp the beginning of March and in the middle of March I was relieved because of the following incident: After all details which went out every day had been working about an hour the sergeant from the Economical Section came and told me that he needed 34 men for a wood detail. I went to the kitchen. First I went

to Block 2 to the blockeldest. I told him to get me 34 strong men, and in the meantime I would go to the kitchen and pick up their breakfast. I ran to the kitchen and told Sgt. Bergmueller who was here as a defense witness "Sergeant, I need 34 breakfast portions, a detail is leaving now, I don't know whether that has been reported in the morning, but at any rate they are leaving late and I can't let them go without breakfast." He said "Get out of here,you don't have any business here even if you are the campeldest". I ran to the roll call square and I saw the 34 men there and I told this to the camp clerk Stiegel and I asked him what could I do, I couldn't let these people go, and he said that he would go to the kitchen instead of me and would complain about these portions. I, myself, nevertheless, went there again. I asked the sergeant twice "Sergeant, give me the bread, please, for these prisoners". He said to leave him alone, otherwise he would hit me and threw me out. Then I told him "Yes, you can try to hit me." I have to mention that I was working up a temper while this conversation was going on because it was forbidden to send a detail out without breakfast. I said "If you hit me I'll hit back" and thereafter he threw me out of the kitchen and I left. Stiegel, the camp clerk, went to the kitchen and finally received the bread. He gave the bread to the prisoners and the detail left. Immediately Sgt. Bergmueller went straight to headquarters and reported me there. The commandant called me. He asked me what was the matter with me, that he was fed up with me and that he would send me on a transport to Mauthausen, beat me twice in the face with his fist and relieved me immediately and told me I had to go to work in the stone quarry. I went back to the camp. I had to take my things because I had to move out of this room and I had to move to another block, to Block 9. The blockleader called me to the adjutant, to Baumgartner. Baumgartner

told me "I have seen in your files that you are a male nurse. You will be the cape of the hospital as of now because the other cape is a drunkard."

hat training had you had as a male nurse?

A After I had served my six months of SK punishment in Dachau I was transferred to the hospital and was trained there as a male nurse. There were two SS doctors. We had to help in the morning in the wards and the ambulance to put bandages on people and in the afternoon there were two hours of theoretical training under the supervision of these doctors.

Q How long did you spend in taking that particular training?

A At least eight weeks.

Q Did you pass any kind of an examination following that?

A Yes. Well, you can't say that. Of course we had to take an examination whether we were fit or not but since it was in a concentration camp I don't have any proof of any kind for that. After I was recognized as usable I was kept in the hospital as a male nurse. In December, 1940 my time was up in the punishment company. Then I served in the hospital until October, 1941. Then I was sent to an outside detail as a first-aid man. I had to work like the other prisoners and take care in the evening of my wounds, I had to bandage the prisoners.

Q You stated that Baumgartner told you were going to be hospital cape. When did you actually take up the duties of hospital cape?

A In April, 1944.

Q Mr. Mathei, I would like to have you explain to the court just what your duties were as hospital cape in Flossenburg.

A It was my duty to see to it that the straw mattresses were renewed after patients had been off; I had to see to it that

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as under many assemblies took place near the hospital; I had to see to it that black marketing ceased between the patients in the hospital and the prisoners of the camp; I had to see to it that the strength report was made to the clerk's office. I had to do that myself. For a certain reason I emphasize that would have been my duty. Really I didn't have a thing to say in the hospital. I made a mistake because I'm not a diplomat. Gelts was a clerk in this hospital. Gelts also had a red triangle but Gelts was homosexual as I have seldom seen anyone. I immediately attacked that. I said if I ever catch him once I would be t him up. Gelts often I found young men in his clerk's office in the hospital...No one had any business there..... mainly in the evening when there was no time for anyone to come in there, eight or nine o'clock. I had several conversations with Gelts during the beginning. Gelts told me that he had been in France a few times before the war and that he would go back there after the war, and I would like to emphasize that when I entered the hospital no French doctor was there, only Poles, Czechs and Russians were there and one German male nurse besides me.

PRESIDENT: The court will take a short recess.

(Thereupon at 1630 hours the court recessed.)

(Thereupon at 1637 hours the court reconvened)

PRESIDENT: The court will come to order. Proceed, Mr. Mokay.

KARL MATHEI, an accused, resumed the stand and testified further through the Interpreter:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. MOKAY:

Q Mr. Mathei, you just spoke of the fact that you were not a

diplomat. Will you explain to the court what you mean by that statement.

A Had I been a diplomat I would have tried to get along quietly and well with Gelbs and would have had to try to get him relieved but then I would have had to make a report, but I acted as what you would call an elephant in a China shop, I immediately attacked Gelbs and told him that he was a pig and called him some other names and told him that I would not tolerate that sort of thing. But Gelbs had a very good name with the SS doctor at that time, Maj. Schnabel. It was peculiar,when I entered the hospital, Gelbs, Termer and several blockeldests were quite often drunk and, of course, the hospital capo Rueckert. When I entered the hospital there was not a drop of alcohol there, with the exception of two or three tenths of a liter of alcohol that were picked up by a Pole and were taken by him to the laboratory.

Q During the time you were hospital capo where was the hospital located in the camp?

A Near the arrest. Between the hospital and the wall of the arrest building there was a small path which was about 1/2 a meter wide.

Q Will you come over to Prosecution's Exhibit 5 and indicate the blocks which constituted the hospital when you were capo there.

(Whereupon the accused Mathei approached Prosecution's Exhibit 5.)

A This was Block 13 (indicating), here was the TBC station and injection station (indicating).

MR. M'KAY: Let the record show that the witness has

indicated a figure marked with the red letters 13 on prosecution's Exhibit 5 as being the TB block and injection station.

ACC. MATHOT: The injection station, and here (indicating) was also the station for angina and communicable diseases.

That was all in Block 13?

A Angina and diphtheria.

Q That was all in Block 13?

A That was all housed in Block 13. This was the main entrance to the hospital here (indicating).

LT. M'KAY: Let the record show that the witness has indicated an opening at the top of a block marked with 14 in red and the word Hospital in red also.

ACC. MATHOT: To the right of the entrance was the ambulance; the prisoners were examined there and their wounds were bandaged. There were also the closets with the medicaments and the instruments. Between the main entrance and the entrance to the ambulance there was another big closet with medicaments. A little further back was the clerk's office; on the left hand side the laboratory; to the right of that was the preparation room for the operation room, the operating room itself, and a very small cubicle with only a bed and chair where the hospital corps was sleeping. There was a path from Block 14 to Block 15 which had a roof over it.

Q Will you indicate that on the plan.

A Here (indicating).

LT. M'KAY: Let the record show that the witness indicates a connection on prosecution's Exhibit 5 between the blocks 14 with the word Hospital, but in red, and the block with 15 and the word Hospital in red.

ACC. MATHOT: This block 16 (indicating) was also part of the hospital.

LT. M'KAY: Let the record show that the witness indicated a

block with the figure 16 in red on Prosecution's Exhibit 5.

ACC MATHOI: I should like to describe the rooms in there also.

MR. M'KAY: Yes.

ACC MATHOI: This block also, like the other blocks and like Block 1, had three entrances. This (indicating) was the entrance to the prisoners' dental station. There was at first a room where patients were who were under treatment by the dentist. Next to that were the treatment rooms for the dentist and in back here (indicating) were only sick people. This Block 17 (indicating) belonged until June or July of 1944, I don't know exactly the month, to the hospital also; it was the convalescent ward.

MR. M'KAY: Let the record show that the witness has indicated a block on Prosecution's Exhibit 5 with the number 17 in red as the convalescent block up until sometime in 1944.

ACC MATHOI: I can't give you the exact month but I know that until the summer of 1944 people from the weavers' shop were stationed there and all of these were weak people and they didn't have to walk far to their place of work. The weavers' shop was here (indicating) in this block.

MR. M'KAY: Let the record show that the witness has indicated a block with the number 23 on Prosecution's Exhibit 5 as being the block where the weavers' shop was located.

ACC MATHOI: At the end of July, 1944, the weavers' shop was transferred from Block 23 to the stone quarry. Other than that I don't have to say anything here. And here (indicating) is that small path which I had been describing which was left open so whenever straw mattresses were changed they would not have to be carried through the whole hospital but they would be thrown out of the window here (indicating) and would be carried around this way (indicating).

MR. M'KAY: Let the record show that the witness has indicated the path existing between the block which carries number 15 in red and also the word Hospital in red and the line which has been identified by previous witnesses as the outer part of the prison compound enclosure, which is immediately below the block heretofore described.

ACC MATHOI: In 1944 there was a small wooden gate installed here but that was at the time after I had been relieved. You could take the wooden gate out with one hand.

MR. M'KAY: Let the record show that the witness indicated a wooden gate as existing between the left hand corner of the block designated as Block 15 in red with the word Hospital also in red and the outer wall of the prison compound enclosure, all on Prosecution's Exhibit 5.

Q As hospital capo were you required to visit these various blocks you have just described on Prosecution's Exhibit 5?

A Yes.

Q Will you explain to the court just your responsibility as hospital capo for these various blocks that you have just indicated on Prosecution's Exhibit 5.

A Yes. It was my main job to distribute the medicaments that had been ordered by the doctors during their visits in the morning or in the evening. These medicaments, if they were of a harmless nature, were kept in a closet that I have described between the main entrance and the entrance to the ambulance. Most of the time Janush Janitsky had this key in his pocket but at times I had it. Narcotics such as morphine, evipan, as a matter of fact all narcotics or medicaments that could kill, were kept in a special closet behind the clerk's office in a room which was there for the doctors. The key for this was kept either by Gleta or Dr. Schmitz or Sgt. Demel.

Q What duties did you have as hospital capo in the ambulance?

A I had to be there when the doctor was there and when people were admitted in the morning after the roll call and in the evening after the roll call. Before 4 o'clock, with the exception of accidents, nobody could be admitted because the strength of the different blocks had been reported by the blockeldest. I also had to see to it that the food was picked up in the morning at 11:15 from the kitchen, the food for the hospital. As of 1944, after Dr. Schmitz had entered the hospital, special diets existed for prisoners. This diet was partly taken to the outside camps in black market activities my the male nurses. It also happened that prisoners would go through the small path which I have described, would climb into the window or else reach through the window, and take x the bread from the patient's pillow and take off with it. I did not do any internal examinations as to whether a patient was sick or not because I am not a doctor but I threw prisoners out of the hospital because from the time the food had been picked up until the distribution it was put into the lavatory of the hospital and these prisoners would go in there and steal this food that belonged to the patients. The food had to stand there because the doctor was not through yet. Dr. Schmitz was mostly there until 12 o'clock noon and until he had left the food could not be given out because when the patients got up too much sawdust and dust would be made while the doctor was making his visit; the sawdust was in the mattresses. The entrance to the hospital was open so that everyone could enter it. These people didn't come in there to be examined or to see the doctor. No, they didn't want to see the doctor, they came in there to steal. These people went into the lavatory, took their pot which every prisoner carried around on his back, and would go into the kettle and take out the food. And this Block 16, the convalescent block, received the food also when I received it but their food was not taken to the hospital, it was taken to their b'

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immediately. These prisoners who carried the food were often trip ed by their fellow prisoners or pushed over and their meal was gone and they took the kettles away from them. There was no substitution for this food because the kitchen had already issued the food and the surplus had been picked up by the campoldest.

PRESIDENT: The court will adjourn to 9 o'clock tomorrow morning.

(Thereupon at 1700 hours the court adjourned).

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 4144 - 4225 Incl.

FLOSSENBURG
Case No. V. (((

*~~Summary~~
*~~Intermediate Military Court~~.
*General

Prosecutor

Defence Counsel

Place DACHAU, GERMANY

Interpreter

Date 27 September 194 6
0900 - 1700 Hours

Reporter

~~Members of Court~~
WITNESSES:
EDY ROEHNER
MARCEL QUINTO ARRIGONI
FRITZ JAENSCH
KARL MATHOI

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH FLICKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

27 Sept. 1946 0900 - 1700 hours Pages 4144 - 4225 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
EDY ROEHNER		4174			4145 4170
MARCEL QUINTO ARRIGONI		4181			4176
FRITZ JAENSCH		4187	4197		4182
KARL MATHOI	4189 4207				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-11	Traveller's Pass of Mathoi	4212	4213

Camp Dachau, Germany
September 27, 1946.

MORNING SESSION

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(Whereupon the court reconvened at 0900 hours).

PRESIDENT: The court will come to order.

DEFENSE COUNSEL: May it please the court let the record show that all personnel of the court and of the prosecution are present, all personnel of ~~defense~~ are present with the exception of Colonel Wilson and Major Oeding and Dr. Engelhorn, who are absent on business of the ~~accused~~ prosecution, all accused are present with the exception of Buddensieg, Olschewski, Oswalt and Schreiber, who are sick in the hospital and whose interests are being taken care of by their counsel. If there is any spectator in the court room who expects to be called as a witness in this case, he will please leave the room.

PRESIDENT: The court at this time will call Edv ~~Roehrner~~ Rochner as a court witness. The accused Mathei will be excused from the stand for the time being and resume his position in the dock.

(Whereupon the witness was excused and resumed his place in the dock).

Edv ~~Roehrner~~ Rochner, called as a witness by the Court resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q State your name to the court.

A ~~Roehner~~ Rochrner, Edward.

Q You have previously appeared before this court as a defense witness, is that correct?

A Yes.

Q The court understands you were sworn.

A Yes.

Q The Court at this time reminds you ~~Roehner~~ Rochrner that you are still under oath.

A Yes.

Q Do you know Karl Gautsch?

A Yes.

Q How long have you known him?

A Approximately since 1944.

Q Where did you know him?

A In the camp.

Q Do you mean Flossenburg camp?

A Yes

Q Just where did you know him in Flossenburg camp?

A I talked to him quite often.

Q How many times did you talk to him in the Flossenburg camp?

A I saw him often in the evening and then I talked to him.

Q What block do you live in?

A- Block 1.

Q Do you know in what block Gautsch lived?

A I do not know that.

Q But you often saw Gautsch in the evening and talked to him in Flossenburg, is that correct?

A Yes, I went often to the clerk's office to the camp orderly room and Gautsch was doing some written work in there.

Q When was the first time you saw Gautsch in Dachau?

A When I came here for the first time; that was in August.

Q Have you been in Camp Dachau since August?

A Yes.

Q Did you ever have any conversation with Gautsch prior to the time you took the stand before this court?

A Yes.

Q The court is referring prior to the time that you took the stand as a defense witness - - just answer my question. Did you ever have conversation with Gautsch prior to the time you took the stand as a defense witness?

A Yes.

Q What was the nature of that conversation?

A When I came to Dachau for the first time, I asked Gautsch what was going on here. He told me to be careful with my statements so I won't be an accused myself.

Q Where did that conversation take place?

A It was in our billets.

Q Was anybody else present when that conversation took place?

A No.

Q Did Gautsch explain to you at that time what his status was?

A Do you mean what he was doing here?

Q Yes.

A He did not tell me what he was doing here but I saw Gautsch was doing written work for the prosecution.

Q Did Gautsch ask you anything about what you were doing here?

A I can't remember that.

Q Well, do you know whether or not Gautsch realized that you were going to be a defense witness?

A I assume so.

Q New just what did Gautsch say to you on that occasion?

A As I mentioned before, he said to tell what was true and to be very careful about my testimony, to state everything I knew.

Q Did you mention to Gautsch just on whose behalf you were going to testify?

A No.

Q Did you ever ave any other conversation with Gautsch prior to the time you took the stand for the first time for the defense?

A We had other conversations as to what he was doing now, how he was, and things like that.

Q What did he tell you?

A That he was living in Munich.

Q Did he tell you anything further about the case?

A He did not tell me what he was doing here.

Q New during the time you appeared here before this court as a witness, and during any of the intermissions, did anybody talk to you? I want you to remember carefully, take time. The court is referring to any intermissions that occurred during the course of

your testimony. When you may have stepped outside the court room during a break - an intermission?

A The prosecutor asked me once whether it would be my turn today to be a witness.

Q Do you remember anything else?

A No.

Q Now after you completed your first testimony on the stand, did anybody particularly talk to you about the case?

A I only talked with the defense counsel a few times.

Q Anybody else particularly referring to the case about your testimony?

A No.

Q Are you sure about that?

A I can't remember having talked to anyone else.

Q Have you seen Gautsch since you left the stand for the first time?

A I see Gautsch every day.

Q Have you had any conversations with him since your testimony?

A We only greeted each other in the morning or at noon time.

Q That is the limit of your conversation with Gautsch since you left the stand as a defense witness?

A Yes.

Q And you never discussed the case with

Gautsch since you left the stand as a defense witness?

A Actually I never had conversations with Gautsch about the things I had been interrogated about.

Q Have you had any conversations with Gautsch at all since you left the witness stand?

A As I said before, we had private conversations several times.

Q Has anybody talked to you about the case since you got back from Munich yesterday afternoon or last night?

A When I returned from Munich last night to my billets, the ones who were in my billet told me I would be interrogated today.

Q Who told you that?

A The ones who are in the same room with me.

Q Did they tell you anything further?

A No. They only told me someone had been looking for me yesterday and I would be interrogated.

Q Did anybody give you permission to go to Munich yesterday?

A No.

PRESIDENT: The court directs you to remain in Dachau unless you have permission to leave. Any further questions?

(Roehner-Court)

QUESTIONS BY LAW MEMBER:

Q Does Gautsch know you by name?

A Of course he knows it.

Q Does he call you by name when he speaks to you?

A He calls me Eddie.

Q You have known him since 1944?

A Yes.

Q When was the last time you talked to Gautsch?

A Tuesday or Wednesday. I was in the chair here and that was when I saw him last.

Q Did you see him just before you went in the chair or just after you got out of the chair?

A After I left the chair, I did not see him again until the next morning and then we didn't talk to each other.

Q You say you saw him in the chair. Do you mean while you were on the witness stand, just before or after you got off the witness stand?

A When I left the chair Tuesday or Wednesday, I saw him the next morning at chow.

Q Did you see him at the time that you testified as you first had?

A Here in the court room?

Q Yes

A No.

Q Did you see him outside the court room?

A When I left the witness chair, I did not see him until the next day at chow.

Q Did you have conversation with him then?

A No.

Q Did you have conversation in or outside the court room any time during recess with Gautsch?

A Yes, we had conversations outside the court room and also conversations with him while we went to Munich. Off and on at night we went together to Munich.

Q Was that during a recess of this court?

A It was during the past weeks.

Q When was the last conversation you had with Gautsch during a recess of the court?

A I believe that was Monday.

Q What day did you testify?

A I am not sure any more, Tuesday or Wednesday.

Q In other words, you talked to him during recess one or two days before you testified. Is that true?

A Yes.

(Roehner-Court)

Q Did he say anything at that time about your testimony?

A We did not talk at all about the case here.

Q Were you with Gautsch yesterday during the noon hour?

A I only saw him during dinner time.

Q Were you with him out here on the path during the noon hour yesterday?

A I do not believe so.

Q Did you have any conversation with him during the noon hour yesterday?

A From chow I went into my billet and right after then to Munich.

Q- You went from chow with him to your billet?

A Yes.

Q Did you see Gautsch when you were in Munich yesterday?

A Yes.

Q Was Gautsch in Munich yesterday?

A Yes.

Q Did he go into Munich with you yesterday?

A At 8:00 in the evening I was standing at the main station in Munich with a friend of mine and he was coming along.

(Roehner-Court)

Q Did you talk to him then?

A Yes.

Q Were you walking up the path with Gautsch when you passed me yesterday at noon time from the mess hall?

A That wasn't Gautsch; that was a different man.

QUESTIONS BY PRESIDENT:

Q Did you have any conversation at all last night in Munich with Gautsch?

A We just greeted each other. We asked him where he was going and he asked us where we were coming from, then we left.

Q Was that the limit of your conversation with Gautsch last evening? Nothing further?

A He told me that the court was looking for me yesterday afternoon.

Q Anything further?

A Really not.

Q Just what conversation did you have with Gautsch last night in Munich. The court is after information. We want the full limit of information. Just what conversation did you have with Gautsch last night?

A I met him at the station yesterday evening and he asked us where we had been and we asked him where he was going, and shortly

after that we left.

Q What else transpired?

A He also said that the court had needed me in the afternoon.

Q Did he mention anything further as to why the court wanted to see you yesterday afternoon?

A He told me probably because of him.

Q And what else did he say?

A He told me that he didn't want to talk to me about the case so that they can say he influenced me.

Q Did he mention anything further as to why the court wanted to talk to you?

A No.

Q Did he mention about anything that had transpired previously during the course of his contact with you?

A About yesterday's case?

Q Did Gautsch mention anything about any previous conversations he had had with you when he talked to you in Munich last night?

A No.

Q Are you sure about that now?

A I didn't pay too much attention to the whole conversation and didn't bother to

listen too closely because I was waiting for someone.

Q Who was the other party with you?

A I don't know his name but he is here.

Q You mean he is in Camp Dachau?

A Yes.

Q You spent the entire evening with him?

A Yes.

Q You do not know his name?

A He is a Belgian. I do not know his name.

Q You do not know his first name?

A No.

Q What is he doing here in camp?

A I believe he is a witness in the Buchenwald case.

Q Do you know what building he is located in here in Dachau?

A Yes.

Q What is his appearance? Is he tall or short?

A He is medium size and he is dark haired.

Q Anybody else with you at that time when you were in Munich and during the time you were talking with Gautsch?

A This one was with me.

(Roehner-Court)

Q Anybody else?

A No.

Q Is that the first time you were in Munich with that particular individual?

A I have been with him in Munich several times.

Q And you do not know his name?

A I can't remember his name because it is a foreign name.

Q You understand you are under oath, don't you?

A Yes.

Q You fully understand what perjury means?

A Yes.

PRESIDENT: Any further questions by members of the court?

QUESTION BY LAW MEMBER:

Q Did you have an arrangement to meet Gautsch in town last night?

A It was a coincidence that we met him because both of us were waiting for someone else.

QUESTIONS BY LT. COL. SKIELVIG:

Q Did Gautsch or anyone else tell you whether or not he had been on the stand here the last day or so?

A Gautsch told me last night it is better if we didn't meet.

Q When did he tell you that?

A Last night.

Q Whereabouts?

A At the station in Munich.

Q Did he say anything else besides that -- other than what you have already related to the court so far?

A Gautsch said it is better if no one knows that we met here.

QUESTIONS BY THE PRESIDENT:

Q How long did you talk to Gautsch last night?

A I believe not five minutes.

Q Are you sure it wasn't longer than that?

A It could have been five or ten minutes.

Q Could it have been longer than ten minutes?

A I do not believe so because we didn't have anything interesting to talk about.

Q You mean to tell the court that you talked with Gautsch five or ten minutes and the only thing you said to each other was where he had been and where you had been.

A He also said that the court had been looking for me in the afternoon, that I would be interrogated in the morning and I had to report in the morning right away and it would be better if no one knew we had met that evening. And he didn't want to talk to me any further so that no one could say I was under his influence.

Q Did Gautson mention anything about any order that the court had given him?

A What kind of an order?

Q Did he mention anything about an order the court gave him?

A That he had been told something I assumed, because he said, "Listen, we didn't talk here at the station".

Q He told you that: "Listen, we didn't talk here at the station"?

A Yes, and I didn't have to be afraid of having had conversation with him because I didn't say anything wrong.

Q But did he mention at that particular time any order the court had given him?

A He didn't say anything about an order.

Q What did he say?

A As I have mentioned before, he said, "We didn't meet tonight and we didn't talk tonight." I said, "All right".

Q Did he say anything further in explanation of that?

A He said to me that he didn't want to talk to me so that I could say I was under his influence.

Q Well, had you ever been under his influence?

(Roehner-Court)

A I won't let anyone influence me.

Q Was anything ever mentioned to you about the possibility of a second Flossenburg trial?

A Yes.

Q Who mentioned that to you?

A Gautsch told me that before.

Q When did he tell you that?

A I believe that was in the beginning when I was here.

Q What did he say at that time about the possibility of a second Flossenburg trial?

A He told me that several of them had been arrested again and that these were the ones who would be tried in the second case.

Q Did he mention who they were?

A -- and he told me that if I knew something against anyone I should report it to prosecution or defense.

Q Did he mention anything about any particular person who had been arrested for implication, we'll say, in the possibility of a second Flossenburg trial? Did he mention any names at all?

A He told me names of people who were here but I can't remember who they could be.

Q Did he mention that these particular people might be implicated in the second Flossenburg trial?

(Roehner-Court)

A Yes.

Q Who were they? Did he mention any particular names?

A He gave me names, yes, but I really can't remember any more who they were. I only knew one, ~~Burgmiller~~ Burgmueller. I have seen him here in the corridor once.

Q And Gautsch mentioned his name, was that the idea?

A He didn't give me ~~Burgmiller~~ Burgmueller only, but he gave me other names. It has been a long time ago.

Q What else transpired during the course of that conversation? In the first place, the court wants to know just where that conversation took place.

A It was in the corridor.

Q In this corridor out here in front of the court?

A Yes.

MR. McKAY: Let the record show that the accused Schreiber has returned to the dock.

QUESTIONS BY PRESIDENT (continuing).

Q What were you doing at the time?

A I had to wait in the corridor.

Q Was that during the course of a session of the court?

A Yes because I was to be next as a witness and I had to wait two or three days until the witness who was inside was finished.

Q The court understands this conversation took place here in the corrider of this particular building right outside of the court room while you were waiting there to appear as a witness. Is that the idea?

A Yes.

Q And that was when Gautsch talked to you on that particular occasion?

A That there would be a second Flossenburg trial and he has told me that before. He has told me that in the mess hall and once while away from the mess hall.

Q Was anything ever mentioned that you might be present at a second Flossenburg trial?

A He told me that if I knew anything, he told me I should go and report to prosecution or defense so that they could make use of that at a later time.

Q Who else was present when Gautsch was talking to you just outside in the corrider?

A There were several spectators out there who waited for the intermission to end.

Q Were there any other prospective defense witness out there at the time?

A I didn't pay any attention to that and I can't remember.

Q Did you ever see Gautsch talk to any other defense witnesses in the corridor out there?

A Everyone talks because all of us knew each other from former times.

Q Now just a minute. Get right down and answer my question. Did you ever see Gautsch talk to any other defense witness in the corridor out there?

A I saw quite often that Gautsch was talking to Jensch.

Q How do you spell that name?

A J-E-N-S-C-H.

Q Who is he?

A He is here.

Q In what capacity?

A He is here as a witness.

Q You mean as a defense witness?

A Yes.

Q Did you hear any of the conversation between Gautsch and Jensch?

A No.

PRESIDENT: Any other questions by members of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q When did you first find out that Gautsch had been recalled as a witness?

A I saw Gautsch for the first time when I had to come to Dachau.

Q Did you know that he had been recalled in here before the court a second time, is that right? You knew that he had been recalled a second time before this court?

A I do not know if Gautsch had been here a long time. I saw him again for the first time here in Dachau.

Q How many times has he appeared before this court?

A As far as I can remember, I didn't see him on the witness stand at all.

Q How many times have you seen him come into the court room?

A I didn't see Gautsch in here at all.

Q How many times have you seen him come through that door?

A Through the entrance door?

Q That door there, the entrance door. (indicating).

A It is possible that he went through there and that he was in here when I was in Munich but I have not personally seen him enter.

Q Have you ever seen him come up the corrider towards that door?

A I saw him often in the corrider.

Q When was the last time you saw him in the corrider?

A I believe that was Monday. And yesterday I believe I saw him again.

Q Did you see him when he was escorted into the court room?

A I was not here yesterday afternoon.

Q Were you here Wednesday afternoon?

A I believe I was in Dachau.

Q Did you see Gautsch escorted into the room that day?

A No.

Q Did you see the court march in just before Gautsch appeared on the witness stand?

A I was not here yesterday afternoon.

Q I am talking about Wednesday afternoon.

A I wasn't here at all when the court marched in in the afternoon.

Q Wednesday?

A Yes, because whenever I know that I am not needed, I stay in my billets.

QUESTIONS BY LT. COL. SKIELVIG:

Q Did I understand you to say that you took the stand here a week ago on Tuesday or Wednesday?

A Tuesday or Wednesday I was in the witness chair for Jakubith.

Q How many days prior to that did Gautsch

have this conversation with you in your billets in which he warned you to be careful?

A That was in the very beginning of my arrival here.

Q Well, approximately how many days after you arrived here?

A He told me that in the beginning when I got here and told it again to me after a few weeks. He said everyone can do whatever he wants to do, everyone can say what they want to say, and that he didn't want to influence me.

Q But he had two conversations like that with you, is that true?

A He had conversations with me several times.

Q What was the last conversation he had with you in which he warned you about what you might say? How many days prior to your taking the stand was that?

A It could have been fourteen days before that.

Q No sooner though?

A In the very beginning when I got here and fourteen days before I took the witness chair we had the same conversation.

Q Do you know whether he talked to any other witnesses in the same fashion, warning them

about what they might say? Do you know of your own knowledge or did you hear anyone say they had talked to him?

A I have seen Gautsch talk to others but I do not know about which topic.

QUESTIONS BY LT. COL. BURCHAM:

Q Were you still in the hall way when Gautsch left the court room on Wednesday?

A I didn't see Gautsch enter nor did I see him come out.

QUESTION BY THE PRESIDENT:

Q Did Gautsch ever mention to you why he was called before the court a second time?

A No.

QUESTIONS BY LAW MEMBER:

Q Did I understand you correctly. I understood you to say that in this conversation you had with Gautsch last night in Munich that he wanted you to take the witness stand to explain your conversation with him? Did I understand you correctly?

A Gautsch told me that the court had been looking for me for interrogation and that I would have to report immediately in the morning.

Q Didn't you state here a moment ago that Gautsch told you the reason why the court wanted you to take the witness stand?

(Roehner-Court)

A He told me probably because of him but he didn't want to discuss it so that no one could say he had informed me. That I would have to give information or explain something.

Q What else did he say?

A I then asked him if it was forbidden for us two to talk. And then we were talking about private things, as to where he was going and as to what I had been doing in Munich.

Q Did he tell you what he had testified to?

A I didn't even know he was on the witness stand.

Q He didn't tell you he had testified during the day?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COL. JACKSON:

Q How many times have you been on the witness stand?

A I believe it is the third time today.

Q Do you recall the first time you were on the witness stand? The date?

A I do not know the exact date. I believe it was the end of August.

Q Who did you testify for at that time?

A For Maurer.

Q And then later you were called in again as a defense witness. Is that correct?

A Yes.

Q How many days later?

A It was just this week, Tuesday or Wednesday, for Jakubith.

PRESIDENT: Any further questions by members of the court? The court will take a half hour recess.

The court directs that during this intermission you talk to no one without the permission of the court.

(Whereupon the court recessed at 1000 hours).

(Roehner-Court)

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(hereupon at 1050 hours the court reconvened)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Col. Wilson, Maj. Oeding, and Dr. Engelhorn who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski and Oswald who are sick in the hospital and whose interests are being taken care of by their counsel.

The witness is reminded that he is still under oath.

EDY ~~ROEHRNER~~ Roehrner, called as a witness by the court, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

PROSECUTION: If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

EXAMINATION BY THE COURT (continued)

QUESTIONS BY THE PRESIDENT:

Q Roehrner, during the course of this recent break you have had an opportunity to think over about this conversation that you had with Gautsch last night.

A Yes.

Q Can you tell the court at this time of any additional conversation that you had with Gautsch? In the first place, the court wants to impress upon you that the court desires all the facts relative to that meeting with Gautsch last night. All right, go ahead.

A The Belgium and I were both standing at the Munich R.R. station about 7:30 and we were waiting for someone. After we had been standing there about ten minutes Gautsch came along. We greeted each other and then I asked him where he was going that evening. He

also asked us where we had been and what we were doing now. I told him that we were going back to Dachau with the 9 o'clock train and then I asked him whether anything was new. He told me that the court had been looking for me yesterday afternoon. I asked him why and he told me probably in his case and I said to him "Why? What's the matter with you?" He said that I had to report in the morning and that I would probably be interrogated in the morning and I told him that doesn't make any difference to me, I don't have to be afraid, and then he said "Probably in my case"; and then he said to me if anyone should ask me whether I had met him I should say no, because it was nobody's business and no one should know that we had met in Munich. I said "Okay, I'll say that I didn't meet you and everything is all right". After I had been reminded of being under oath several times here I am forced to tell about this meeting in Munich. And then we said goodbye again.

MR. M'KAY: Will you have the witness speak up?

PRESIDENT: All the court wants you to do, Rechner, is to tell the truth. Was there any additional conversation at that time with Gautsch?

A The additional conversation was actually of a private nature because he asked me where I was going and I asked him where he was going and what he was doing in Munich and so forth.

Q When Gautsch mentioned that your interrogation this morning would probably refer to his case, did he explain anything further about that?

A He said that he couldn't tell me the reason for being interrogated in his case so that no one could say that I had been influenced by him or that he had forced me to make certain statements.

Q Did he make any endeavor at that time to interrogate you

at all, to ask you questions or anything of that nature?

A He didn't ask any questions and he didn't tell me what to say, what to testify. The only thing he said was that it would be better if no one knew that we met.

Q Didn't you think that was peculiar when he made that statement to you?

A I didn't think anything about it because I didn't know at all that Gantsch had been on the witness stand yesterday. I knew that there were differences between Gantsch and the accused.

Q And you didn't ask him anything about why he wasn't supposed to talk to you or anything of that nature, did you?

A I said to him "I don't have to be afraid. I can talk to you, can't I?", but we didn't actually talk about the proceedings in the case.

PRESIDENT: Any further questions by any members of the court?

QUESTIONS BY MAJ. LANHAM:

Q What do you mean when you say you know there had been differences between him and the accused?

A Because the accused assume that Gantsch is making statements to the prosecution.

Q Is he making statements to the prosecution, do you know?

A I don't know what kind of written work he is doing in the office there.

Q Did it take you ten minutes at the bahnhof to cover the little conversation you just narrated?

A We were standing around and I was looking out for someone, for the person I was waiting for, and I didn't show too much interest in the things Gantsch was telling me.

QUESTIONS BY THE PRESIDENT:

Q Roehrner
Roehmer, you know that this Belgian is going to be available

to come before this court, don't you?

A Yes.

Q Is there anything else you want to tell this court right at this particular time?

A That was all the conversation we had yesterday.

QUESTIONS BY LT. COL. SMYLY:

Q Does Gautsch know your name?

A Yes, I assume he knows my name.

Q Did he ever address you by your first name?

A Yes.

Q Did he know your name when you first came to Dachau?

A I remember now that at the station last night he told me that he had been asked whether he knew Rochner and he said that he, at first, didn't know that was my name and he only thought of it when he left the court room.

QUESTIONS BY THE PRESIDENT:

Q But when he talked to you out in the corridor prior to the first time you appeared before this court as a witness did he call you by name at that time?

A He knew me but he evidently had forgotten my name because when I told him my name he said "Yes, yes, that's right, that's you."

Q During the time you talked to him in the mess hall the last few days he apparently knew you at that time, didn't he?

A Yes, of course he knew my name.

Q And he knew your name last night, didn't he?

A Yes.

Q What did he call you last night, Edy or [redacted]?

A "Rochner where were you? Where are you going?".

PRESIDENT: Any further questions by any member of the court?

QUESTIONS BY MAJ. LANHAM:

Q Did he know you as the electrician capo when you were in Flossenburg Camp?

A Of course.

QUESTIONS BY COL. JACKSON:

Q Did you and Gautsch live in the same block?

A I was in Block 1 but I don't know what block Gautsch was in.

PRESIDENT: Any further questions by any member of the court? Apparently not. Does the defense have any questions to ask this witness?

MR. MYAY: Dr. Hacker would like to ask a few questions.

CROSS EXAMINATION.

QUESTIONS BY DR. HACKER:

Q Dr. ~~Roehmer~~ Roehner, do you remember a day before yesterday evening, after the court session, that I talked to you before dinner in the mess hall? You came from chow and I was entering the mess hall. Do you remember that?

A Yes.

Q Did I not ask you at that time whether or not Gautsch knew you?

A You said to me whether I knew Gautsch and whether Gautsch knew me.

Q Did I not tell you that Gautsch had been interrogated here under oath and that he had stated that he didn't know you?

A Yes.

Q Did you not state your surprise to me that Gautsch did not want to know you?

A I said "Gautsch has to know me because we were in camp together and have talked often in camp".

Q Did you not explain to me then that you had talked together just the day before yesterday?

A Yes.

Q Is it correct that that finished our conversation?

A Yes.

Q Thank you.

PRESIDENT: Any further questions on the part of the defense?

MR. M'KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: No questions.

PRESIDENT: Any further questions by any members of the court?

DR. WACKER: One more question.

CROSS EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Was anything said about Gautsch still working in the prosecution's office after yesterday's session?

A I can only remember that I still saw him in there on Wednesday.

Q No, I don't mean Wednesday. I mean yesterday, after Wednesday's session.

A I can't say where he was yesterday because I was not x here.

Q Nothing was said about that?

A Said how?

Q You didn't discuss it with Gautsch?

A Whether he was a witness?

Q No. About his activities yesterday.

A No.

Q Thank you.

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PRESIDENT: Any further questions on the part of the defense?

MR. M'KAY: Nothing, sir.

PRESIDENT: Apparently not. The witness will be excused. The court will take a short recess.

(Thereupon the witness was excused and left the court room)

(Thereupon at 1107 hours the court recessed in place).

(Thereupon at 1125 hours the court reconvened).

PRESIDENT: The court will come to order.

MARCEL QUINTO ARRIGONI, called as a witness by the court, being duly sworn testified through an interpreter as follows:

EXAMINATION BY THE COURT.

QUESTIONS BY THE PRESIDENT:

Q State your name.

A Arrigoni, Marcel Quinto.

Q Arrigoni is your last name?

A Yes.

Q Where do you live at the present time?

A In Brussels.

Q Right at the present time you are living in Dachau, are you not?

A Yes, for one week.

Q What is your status here in Dachau?

A I'm a witness.

Q Do you know Edy ~~Hoehner~~ Roehrner?

A Here in Dachau?

Q In Dachau, yes.

A Only the people I have seen since I've been here.

(Arrigoni-court)

Q Tell the court where you were last evening.

A Yesterday evening we went to the feast that took place in Munich and yesterday evening then we went to a cafe and there a friend who was with me was arrested there.

Q Who was this friend you are speaking about?

A He's called Edy.

Q Then the court understands you were with Edy last night in Munich; is that right?

A Until 9 o'clock, until the police came and fetched the friend.

Q The court understands, then, that about 9 o'clock last night that the police arrested Edy; is that correct?

A Yes.

Q Explain to the court just what happened prior to the arrest of Edy.

A We first enjoyed ourselves and then we met a friend, but I don't know where he lives, I don't know the name of the street.

Q Explain to the court how long you have known this individual Edy.

A Since one week because we live in the same room.

Q Were you down around the bahnhof last evening with Edy?

A Yes, because we had to meet there.

Q What time was that?

A We were to meet at halfpast 7 and we waited to 8 o'clock and then we went to the cafe.

Q Who were you going to meet down there?

A A lady.

Q During the time you were waiting down around the bahnhof with Edy did you talk to anybody particularly?

could see.

Q Had you ever observed him around Camp Dachau?

A Yes, I think I have noticed this person once.

Q Do you know his name?

A No.

Can you tell the court any part of the conversation that took place between Edy and this particular individual that he was talking to down in front of the Bahnhof in Munich last evening?

A I have, so to say, heard nothing about it because there was a lot of noise with the cars passing by and so on, so that I don't know.

Your curiosity, then, wasn't aroused at all about this conversation between Edy and this other man?

(Irrigeni-Court)

A I think so.

Q Who was it?

A I don't know. Edy must know.

Q Did you observe Edy talking to anybody particularly down around the bahnhof last evening?

A He spoke to somebody but it didn't last very long because I didn't notice anything particular.

Q What did this conversation refer to?

A I didn't pay attention to that because while they were talking I was looking for a girl.

Can you tell the court just who this individual was that Edy was talking to?

A He had a light raincoat on and a hat and that's all I

A No, because I was much more interested in the girl than I was in the conversation.

Q You don't recall any part of that conversation, then?

A If I had heard something I should have recalled it but as I didn't I can't tell you.

PRESIDENT: Any further questions by any member of the court?

QUESTIONS BY LT. COL. BURCHAM:

Q Did Edy say anything to you about the conversation afterwards?

A No.

QUESTIONS BY THE PRESIDENT:

Q Did Edy tell you what his plans were for this morning?

A No, because after that I left him and I came back this morning at 3 o'clock and I went to bed and was still in bed when they called for me---I was still in bed when they called for me to testify here.

PRESIDENT: Any further questions by any member of the court?

QUESTIONS BY MAJ. LANHAM:

Q How long did Edy talk to this man last night?

A From 5 to 10 minutes.

Q How did you happen to meet this man that you speak of?

A Because we were standing there and waiting for the lady.

Q Did you go up to this man or did he come up to Edy?

A He passed and he didn't see us.

Q I am talking about the man who Edy was talking to last night.

A Yes, that's right. He passed us and he had not seen us but Edy called him back.

Q Did he call Edy by name when he spoke to him?

A Yes, he said Monsieur so-and-so, but I don't know what he said.

Q Do you know whether or not he called him Edy or whether he called him Rochner or what he called him?

(Arrigoni-court)

A. Edy is my friend, the one with whom I went out.

But the man whom Edy talked to, how did he address Edy when he stopped?

A I don't know the second name, the last name, of Edy, and I don't know what he said.

But you do know that he called him by name when he spoke to him?

A Yes, certainly.

Q But you don't recall that he called him by his first name, Edy?

A I couldn't tell you that.

Would you recognize this man if you saw him again, do you think?

A I think so.

QUESTIONS BY THE PRESIDENT:

Q Did this man seem to know Edy?

A Yes.

PRESIDENT: Any further questions by any members of the court? Col. Jackson.

QUESTIONS BY COL. JACKSON:

Q Did Edy call this man by name?

A I couldn't tell you.

Q And did this man call Edy by name?

A That's just the same question again.

PRESIDENT: Answer it.

A I couldn't tell you.

Q I'm not sure whether Edy called the man by the man's name or whether the man called Edy by Edy's name; that's what I want to clear up.

A Edy called the individual by his name.

And when the individual returned the greeting did he call

Edy by Edy's name?

A That I don't know.

PRESIDENT: Any further questions by members of the court? Apparently not. Defense?

CROSS EXAMINATION.

QUESTIONS BY MR. M'KAY:

Q Can you give us any more of a description of this man that you saw Edy talking to, other than his hat and his overcoat?

A The raincoat was of a light brown and the hat was black.

Q How tall was the man?

A He was about like I.

Q What would you estimate is weight to be?

A About 120 lbs.

Q You stated you thought that you had seen this man before, here in Dachau. Where did you see him?

A I think it must have been at the canteen.

Q Will you explain what you mean by "canteen".

A The mess.

PRESIDENT: Any further questions by the defense?

MR. M'KAY: That's all.

PRESIDENT: Prosecution?

PROSECUTION: No questions.

PRESIDENT: Any further questions by members of the court? Apparently not. The witness will be excused.

(Thereupon the witness was excused and left the court room)

MR. M'KAY: That man is available outside if you need him.

PRESIDENT: The court will take a short recess.

(Thereupon the court recessed in place at 1148 hours and reconvened at 1150 hours.)

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PRESIDENT: The court will come to order. The court will call Fritz Jaensch as a court witness.

FRITZ JAENSCH, called as a witness by the court, being duly sworn testified through an interpreter as follows:

EXAMINATION BY THE COURT.

QUESTIONS BY THE PRESIDENT:

Q State your name?

A Jaensch, Fritz.

Q What is your residence?

A Starnberg, Oberpfalz.

Q Where do you live at the present time?

A Here in Dachau.

Q You are in Dachau at the present time as a prospective defense witness; is that the idea?

A Yes.

Q During your stay in Dachau here just who has talked to you in regard to the Flossenburg case?

A Several former prisoners talked to me.

Q Who were they?

A Nothing has been said about the case itself but things in general were said about this, for instance, that you would be called and then you could return home and so forth.

Q Who were these individuals you talked to who were former prisoners?

A The ones who were in the same room with me, for instance, Roehner, and part of them left already, and I also asked Gautsch about that.

Q The court understands you have talked to Gautsch; is that the idea?

A Yes, several times.

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Tell the court just what transpired during these conversations you had with Gautsch.

A Mostly we talked about things, how they were in camp, and renewed old acquaintances; then we said we wondered when it would be our turn to appear as witnesses because we wanted to go home. But nothing was said about the case itself. That was about all that went on.

Q Did Gautsch explain to you what his personal status is?

A That is generally known here.

Q What do you know about that?

A That he is working for the prosecution, that he is employed by it, but I don't know any of his functions.

Q During the course of the conversation that you had with Gautsch was anything mentioned about your prospective testimony?

A No.

Q Were you questioned at all by Gautsch as to what you knew about this case?

A No. Yes, that is he asked me once for whom I would testify, for whom the defense called me.

Q Did you tell him?

A I told him, yes, for the factory manager Schubert.

Q And did you mention to Gautsch what you were going to say when you took the stand?

A No, nothing was said about that.

Q Did Gautsch appear curious as to what you were going to testify about?

A I believe Gautsch knows me well enough to know I would not answer any curious questions.

Q During this conversation with Gautsch did you talk

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about Schubert?

A No.

During your conversation with Gautsch was anything mentioned about the possibility of a second Flossenburg trial?

A No.

Q Nothing was mentioned about that at all by Gautsch?

A It was said that there were prisoners here who were not in the dock, who were not accused in this case, but nothing else was said about a second Flossenburg trial.

Q The court understands you were in Flossenburg?

A Yes.

PRESIDENT: Any further questions by any members of the court?

QUESTIONS BY MAJ. LANHAM:

Q Tell the court just what was said about the accused whom you just mentioned.

A The ones who are still prisoners?

Q You just said he asked you who you were going to testify for. Tell the court just what was said.

A Gautsch didn't say anything further. He left. That was while he was swimming.

Q But didn't you say you told him you were going to testify for Schubert?

A Yes, that I did.

Q How did you come to tell him that?

A He didn't say anything else more.

Q How did you come to tell him that?

A We knew each other from the last months in the camp and it probably was curiosity on his part that he asked that but I don't know actually why he asked the question. One would ask the other "Why were you brought here?" and no one thinks

anything about it.

Did he ask you if you were going to testify for anybody else?

A No.

Q And the only thing that was said about Schubert was that you were going to testify about him; is that correct?

A Yes.

Q Was there any discussion as to whether or not Schubert was a good fellow or a bad fellow or about his activities in the camp?

A I only said that I personally can't say anything about any bad reputation on the part of Schubert.

Q What else was said about Schubert?

A Nothing else in this connection, at least, not between Gautsch and me.

Q How did you come to make that statement to Gautsch?

A To Gautsch?

Q Yes.

A Because he asked me for whom I was here.

Q But why did you happen to tell him that you could not say anything bad about Schubert?

A I can't give any direct connection, I can't say anything about it. That was at a time when I didn't even know why I had been called here or whether it was for Schubert. All I knew was that I had been talking to one of the defense counsels in the evening and that I then heard it was for Schubert, but whether it was for him or against him I didn't know.

PRESIDENT: The court will adjourn to 1:30 this afternoon. In the meantime the witness is directed that during the course of this recess he will not talk to anybody with respect to the Flossenburg

case. Do you fully understand?

THE WITNESS: Yes.

(Thereupon at 1200 hours the court recessed)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present and all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Major Oeding and Doctor Engelhorn, who are absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski, and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel.

The witness is reminded that he is still under oath, and if there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

FRITZ JAENSCH, called as a witness by the court, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Any further questions by members of the court? Apparently not. Defense?

CROSS EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Jaensch, where did the conversation that you have just talked about with Mr. Gautsch take place?

A In Witness Billets 1, Room 9.

Q Does Mr. Gautsch live there, too?

A No.

Q And about how many times have you had any conversation with Mr. Gautsch?

A In this case, the thing I am testifying about?

Q Yes.

A Once or twice, and that was in the same day. He came over to me and borrowed some soap so he could take a bath and we discussed it briefly.

Q And have you related all of your discussion already to the court?

A Yes.

Q Did Mr. Gautsch call you by name?

A Yes. We know each other from the camp. There were other conversations but they didn't pertain to the case here. They were about other comrades whom we knew from the camp.

Q Was there any discussion about other people who might be held with regard to Flossenburg?

A No.

Q Did he ever speak of his connection with the Flossenburg case in any way as far as the prosecution is concerned?

A No.

PRESIDENT: Further questions on the part of the defense? Apparently not. Cross-examination?

PROSECUTION: No questions.

PRESIDENT: Any questions by members of the court? Apparently not. The witness is advised that the directions of the court given to him about not discussing the case with anybody, i.e., the Flossenburg case, referred to the period of the noon recess. Is that clear?

WITNESS: Yes.

PRESIDENT: Naturally, you must keep in mind that there is a possibility of you being called as a defense witness.

WITNESS: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: Please the court, Mr. Roehrner is outside. I wonder if the court will want him again this afternoon.

PRESIDENT: The court will not desire the recall of Roehrner this afternoon. He can be so notified.

MR. MCKAY: Mr. Mathoi will return to the stand.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: The court understands, Mr. Mathoi, that you desire to resume the stand and testify in your own behalf.

ACC MATHOI: Yes.

PRESIDENT: Proceed.

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Yesterday afternoon you told me that when you became hospital capo the doctors and nurses who were there were mostly Czechs and Poles and Russians. Now, I want you to explain whether this condition continued after you were hospital capo.

A No. In May 1944 a large transport of Frenchmen arrived in the camp and Gelb conferred with Doctor Schnabel and Doctor Schmidt and saw to it that several French doctors were taken into the hospital. Thereupon several Polish, Czech, and Russian doctors were relieved. There were about three doctors to each ward. They all lived in the wards and in the T. B. station there was a Czech doctor.

Q Will you explain to the court the nature of your relationship with these French doctors who worked in the hospital while

it.

WITNESS: Yes.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and withdrew from the courtroom.)

MR. MCKAY: Please the court, Mr. ~~Roehmer~~ Rochrner is outside. I wonder if the court will want him again this afternoon.

PRESIDENT: The court will not desire the recall of ~~Roehmer~~ Rochrner this afternoon. He can be so notified.

MR. MCKAY: Mr. Mathoi will return to the stand.

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Q Will you explain to the court the nature of your relationship with these French doctors who worked in the hospital while

you were capo there?

A Yes. I was very friendly with the prosecution witness Jaques Michelin. He invited me quite often to visit him at his home after the war and after all that was over, but he told me not to tell this Bommelaer because he and several others did not want him to be friendly with me. He and the dead doctor, were sitting with me quite a few times in the evenings. I saw quite a few times that the French doctors would take pills and medicaments out of the ward wrapped in cotton after the ambulance hours were over. Besides that, several patients complained that the treatment was not as good any more, as when Polish and Czech doctors were still there. The man who was in charge of the ambulance was a Pole by the name of Jan Janicski , on whom you could depend one hundred per cent. He came to me quite a few times and complained that the French doctors would take a spoon for the smears and go from the part with the white smear into the part with the black smear and vice versa, and some would go into different parts with smears without cleaning the spoon first. Besides, if they had to do any bandaging in any ward, they would take the smear pots over to the ward and never return them. In a place where everyone is sleeping on sawdust matrosses there is a lot of dust and it's not good for these pots to stand around uncovered. Besides, it was my job to take care of the post mortems. Every prisoner who had died an unnatural death had to have a post mortem performed on him and one report would be sent to the headquarters and another report to Berlin. Unnatural death was if an accident had killed a man or he had been shot to death, or he had been beaten to death, because if something like that happened, that could not be kept secret. Besides, a post mortem had to be performed on him. In former times the

post mortem room was in the crematory, until 1944. In 1944 they made a brand new post mortem room in Block 13. At one time when I went to the post mortem room, I saw two French doctors standing there with a dead body on the table and the dead body had already been opened. When I was a pupil in Dachau, we were taught by the SS doctors to cut open a man with a so-called "T" cut, i.e., from the right shoulder bone to the left shoulder bone and straight on down. The flesh had to be drawn back over the ribs. That was to be correct, a right post mortem, because the interior organs were not to be hurt so that they could find the cause. When I entered the post mortem room that day, I saw the dead body there and the chest had been opened in the form of a lid. The skin had not been removed but they had just jammed the knife in and out around, all around the thoracic cave. I asked them, "Who dissected this man? That is not correct, even though you are doctors, according to my opinion." I said, "It is not necessary to injure a person even if he is dead." It is, of course, natural that I made enemies that way. They told me that right away anyhow. They said that I didn't understand it because I was not a doctor. I left and reported this to Doctor Schmitz. He said, "Well, he's dead. You can't help it any more. They have a different custom than we have."

It was prohibited by order of headquarters that any SS man who was connected in any way with the hospital, i.e., who was not a SDG, enter the hospital.

Q What do you mean by SDG?

A Medical corps man.

Q Continue.

It was my job also that while the doctors were eating their noon food I had to run from ward to ward with a box of medicaments that had been prescribed by Doctor Schmitz and distribute them.

Q Now, will you explain to the court what, if any, duties you had other than giving the anesthesia with regard to the operations themselves?

A Yes. Patients came who had ulcers, either on the back of their neck, or their thigh or arm. I have to emphasize that while I was the hospital capo in April and May, 1944, there were 12,000 people in the camp and that daily 150 to 200 persons came to be bandaged. There was not enough room at all to cover all this. The people pushed, of course, and everyone wanted to get into the hospital. Then everyone had to work, of course, and I punctured these ulcers just as well as they were punctured by other male nurses. If it was in the back of the head, I called the barber - we had two barbers in the hospital - and had him shave the place first. Then iodine was applied to that place, and then they were opened with an operating knife. I cannot remember anyone having died from that. Each male nurse did that. I have also seen that in my home and other places, that an ordinary first-aid man who had taken a course of six to eight weeks opened ulcers.

Q What, if anything, did you have to do with the serious cases of ulcers?

A Nothing.

Q Who took care of those?

A I did not dare to do anything with those.

Q Who took care of those?

A Doctor Schmitz or the other doctors, and the other doctors didn't do anything either unless Doctor Schmitz had seen it.

A It was forbidden for any prisoner who did not want to see the doctor to run around the hospital because of carrying away epidemics. It was forbidden also that those prisoners who were in the hospital could go to the canteen to buy things to smoke. Prisoners from the camp came and gave these people cigarettes, as I mentioned before yesterday. The price for a quarter of a loaf of bread was two cigarettes. They would give them two cigarettes and take the quarter of a loaf of bread, but the patients were hungry also. They didn't want only to smoke; they wanted to eat also. That logically resulted in the theft of bread at night from the patients.

I do not want to bore the court by giving all these small details, but you could not get any impression about the life in that camp unless these details were described.

Q Now, Mr. Mathoi, I would like to have you explain for the court your duties as hospital capo with regard to the operating room.

A Yes. Tuesday and Friday were operation days, from 7 o'clock in the morning until 12 noon, or 12:30. The patients who were to be operated on were determined prior to that by Doctor Schmitz. The previous day the aprons and suits were sent to the so-called sterilization section of the S3 hospital in sterilization drums. It was my duty in the operating room to give the patient the anesthesia. I gave about 80 anesthesias for operations that were to be performed by Doctor Schmitz. No patient died while I gave him an anesthesia, nor after he had come out of it, but after I had been relieved a Czech doctor came and the first he gave anesthesia to died on him.

Besides, in the evening I bandaged in the ambulance just as well as the other male nurses did.

It was my job also that while the doctors were eating their noon food I had to run from ward to ward with a box of medicaments that had been prescribed by Doctor Schmits and distribute them.

Q Now, will you explain to the court what, if any, duties you had other than giving the anesthesia with regard to the operations themselves?

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A Nothing.

Q Who took care of those?

A I did not dare to do anything with these.

Q Who took care of those?

A Doctor Schmits or the other doctors, and the other doctors didn't do anything either unless Doctor Schmits had seen it.

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Q Now, will you explain to the court your duties with regard to accompanying the physician on his visits in the hospital?

A Yes. Doctor Schnabel always arrived a little later. He never arrived there before 8 or 8:30, but Doctor Schmitz was in the hospital at a quarter after 7, at the very latest 7:30. It was my duty to go along with ~~Gelz~~ Goltz and Doctor Schmitz through each ward to each bed. ~~Gelz~~ Goltz as well as I wrote down for each patient what had been prescribed by Doctor Schmitz. The visit lasted about 30 minutes to 45 minutes, sometimes an hour. Half an hour after Doctor Schmitz had finished, Doctor Schnabel arrived. I did not have to stand at attention in front of Doctor Schmitz because he was a civilian and I didn't have to make any report to him. Doctor Schnabel was a major, a sturmbannführer, and whenever he arrived I had to be out in front of the hospital. There was a male nurse out there standing guard and whenever Doctor Schnabel would arrive, he would call me. I immediately had to run outside and had to stand at attention and report to him - "I report to the major that so-and-so many patients are in the hospital". He said, "The visit". And then ~~Gelz~~ Goltz or and I and two or three prison doctors had to go with him again on the same visit that I had gone on before with Doctor Schmitz. It was an unbearable condition there because immediately when he heard that Doctor Schmitz had undertaken a visit, he would say, "That won't happen again. I am dominating this hospital." Besides the color blue was not a color to him, but a condition because Doctor Schnabel liked to drink and not too little of it. He had ideas of coming into the hospital in the camp at 11 o'clock

at night and then I had to waken the patients so he could make a visit. Doctor Schnabel, of course, noticed that I was murmuring something because I didn't like it, but Golta was a big man with him. It was very peculiar until I found out that the relations pertained to alcohol. I have heard from the pharmacist, who was a Jugoslav - I can't remember his name right now - that Schnabel was using the alcohol for himself. Lavitschka is the man's name. And in this inebriated condition Doctor Schnabel would prescribe things and he was very strict in seeing to it that they were carried out. When the commandant visited on one occasion, I told this to the commandant. The commandant said for me to keep my mouth shut, that it was none of my business, and that I was a prisoner and he was an SS officer. What could I do? I couldn't help myself any more.

Q Now, Mr. Mathoi, you have described twice the difficulty you had with regard to prisoners stealing bread from the patients. Will you explain what measures were taken, if any, around the hospital to prevent this sort of thing?

A Firstly, I have to mention that whenever the people would come in the morning to the ambulance to be examined by the doctor, or to be admitted to the hospital because they were sick, there was such a crowd and such a push around that you had to talk as fast as you could to get these people into line. I did that, as well as other male nurses. Besides that, they took advantage of the situation to roam around the wards and dirty the latrines. They went to the bathrooms and stole the underwear of patients who had been admitted to the hospital, underwear full of lice, and took it back to the block. These clothes were there to be disinfected. They went to the lavatory and stole the food of

the patients which was there in kettles. They climbed through the windows in this small path between the arrest building wall and the hospital, either climbed in the windows or reached through the windows to steal the bread from the patients. When they received solfens pills for sore throat or aspirin for headache or bicarbonate for diarrhea, then they would take these pills in their mouth and go outside and spit them out. I don't mean to say that the mass of them did that, but there were such people. They had been freshly bandaged in the ambulance, but they wanted to see that and would go outside and take off the bandage again.

I would like to mention here that there was a prosecution witness who stated that I had thrown a man out of the window in the hospital. That was an impossibility because all of the front windows had gauze over them. The windows had been taken out during the day and were standing in a corner. There was only a screen there.

The room for the dead was in the corner of the hospital block on the way to the where house. Only the death carriers had the key to this room. The distribution of food in the hospital was up to these people, too. I never bothered about that. The Czech doctor who was in Block 13 had the key to the post mortem room. I had merely one key and only had that part of the time - that was for the big closet for the medicaments at the entrance. Twice a week written requests for medicaments were made. Janus Janicski and I, myself, did that, because one man couldn't remember all that. We made a list. This list had to be signed by the doctor and then it was taken to the SS hospital. The SS hospital was outside the compound. There was one telephone from the SS

hospital to the prisoners clerk's office. If ever evipan was needed or luminal was needed, special requests had to be written and anything, mainly as far as luminal was concerned, above the normal, i.e., above the first request that had been written for it, had to have a special request written for that for each individual pill and that had to be signed by Doctor Schmitz and carried over to the SS hospital. When I first entered the hospital, I sometimes saw a male nurse or a doctor or Goltz with enlarged eyes, and when I approached them and observed them closely, I noticed that they were in a stimulated frame of mind. I at first couldn't make out what it was. Janus Janicski observed me observing these people and told me, "Karl, I will tell you what that is. These people drink evipan." I was, of course, mad and I said, "How can you drink that evipan? Where do you get that evipan in the first place?" I mentioned yesterday that only Goltz, the doctor, or Sergeant Demel had the key to the locker with the narcotics. I said to Goltz, "If I see that one more time, you have been here for the longest time." But he knew from the camp that I wouldn't make any report.

In the beginning of May, Doctor Schmitz arrived.

Q What year was that?

A 1944. Doctor Schmitz immediately noticed that as a doctor by their enlarged eyes and their peculiar frame of mind and knew immediately that they had taken narcotics. The first man he caught was the Polish doctor by the name of Garstka. Doctor Schmitz warned this man several times, but he didn't pay any attention to it. After this had been determined, no one was able to approach this locker to get the evipan out of it. There couldn't have been any other way, however, only that these

people had a certain supply on hand of this material, because when Doctor Schmitz entered the hospital each individual ampoule was registered and it was written down for what purpose it had been used. Garstka went so far that Doctor Schmitz threw him out and several others along with him who had been caught stealing the food from the patients. Goltz had worked on Doctor Schmitz for such a long time that Doctor Schmitz finally not only took in French doctors at the hospital, but also French orderlies. But Poles who had been there for a long time had to leave, of course. One of these small people - he was an orderly in Ward 1 - was a young Frenchman, 19 years old. The newly operated patients were in this ward. This small man came to me and asked me what he was supposed to do in the ward, what his duties were, and I explained to him to carry the food to the patients, to sweep the floors, and to mop them, and to take the patients' dishes and put them in the corner, and I explained his duties to him. After 14 days Goltz came to me and said, "This man is no good. He's lazy. Instead of helping the doctors at night, he takes a walk in the camp." I asked him why he didn't do his work. He said, "Well, I'm working." I said, "Well, I was told a different story. I heard that you didn't do your work and that you were lazy and if you don't do your work as of now, you will have to leave the hospital." Maybe Doctor Schmitz can remember that he was actually fired afterwards, but not on my recommendation. It was on the recommendation of Goltz because Goltz told Doctor Schmitz several times that this man was lazy. After he had been thrown out of the hospital, I met him at one time in the camp and I said to him, "Now, listen. Why didn't you conduct

yourself as you should have in the hospital and you would have had a good job?" He said, "Well, Goltz took me to his orderly room at night and told me to give him my love." I said, "Well, what did he want? What did he request? What were you supposed to do?" He told me but I don't like to repeat it here. This boy was in Block 19. It's regretful, but I only know his first name. His first name was Gene. He was later on in 2004, in the armament factory.

Q Mr. Mathoi, how long did you continue to be capo of the hospital?

A Until July. There was a brothel in the camp and everyone who wanted to visit it had to fill out a small note the previous evening and attach to it a coupon of one mark. The following was the wording on the slip: "I request from the camp leader to be permitted to enter the special building". After the roll-call at night, at 7 o'clock the special building was open. The men on duty in this building were the respective SS men on duty in the arrest building. These women were in rooms and the rooms had numbers - No. 1, No. 2, etc. - and these people were just told, "You have No.1, you have No. 2, you have No. 3", because these women didn't have names, they just went by numbers. And these people had to go to the number that they were sent to.

INTERPRETER: This is a strange word, sir. I would like to have it looked up.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

No one was allowed to be in there over 15 minutes. It was just like an assembly line, a mass impregnation. Of course, it was

no one's business and it wasn't my business - I very seldom went there - but during the daytime I called through the wire to a girl that I wanted to see her that night. At night when I got there, I got the number of a woman that I didn't like, so I climbed into this girl's window. Other prisoners saw me and reported me to Wolf, who is here in the dock, and since other prisoners had seen it, Wolf of course had to make a report.

As I have mentioned before, it was forbidden for any SS man who was not a SDG, a medical man, to enter the hospital. But it was peculiar. Shortly after I had been the capo in the hospital and Fritsch had left the camp, Baumgartner and Koegel came to the hospital every day and they, of course, saw people who left the hospital with food and I had to take the blame for it. I was reprimanded, that I was just as negligent here as I had been as a camp eldest, how I could ever allow these people to assemble like that. He ordered that a barbed wire fence would be placed there tomorrow. The barbed wire fence was put up there. The next day the barbed wire was pushed down and the patients and other people climbed in and out. All the talking didn't do any good, as I have mentioned before. Of course, I slapped them. I regret it today. Of course, that can't be helped today any more. Either I received the beating myself or I had to make a report. Of course, it wouldn't have helped the prisoner any if I had received any beating because he would have been punished anyway. As well as I know that my name is Mathoi, I know that I never beat anyone to death or beat him so severely that he died in the hospital. With the exception of the man whose arm I broke and the other man who had a hole

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in his head, I didn't beat anyone there. It was the worst situation that you can picture yourself to be in after the commandant and the camp commander were enemies and I was in the middle, and only because I didn't submit any reports and was reputedly supporting the prisoners.

Q Now, Mr. Mathoi, I ask you to just tell why you were removed from the hospital?

A For one thing, I didn't obey the orders that were given to me by the commandant, by Baumgartner, and by Koegel. Because always people appeared who had been placed as spies throughout the camp to say that black-marketing was going on in the hospital, in spite of the fact that I explained to the commandant that it was only natural that so many people would be around there because the camp was so crowded. But that didn't matter. I had to shut up and do as I was told. It didn't help any and because of this incident I was relieved. The commandant called me, hit me in the face with his fist, and said, "That's enough now. I'll send you to Mauthausen". I said, Commandant, don't take me to Mauthausen, rather shoot me to death." He said that he would think it over. The next day I was told that I had to go to the quarry and work. The Commandant wrote a slip to the labor commitment leader, Becker: "Mathoi has to perform heaviest work." In the stone quarry I had to work in the blacksmith's shop where the heavy iron was beaten with a sledge hammer. I had a large blister which was full of pus and I had to work until the pus was running out of the bandage. I worked there until October.

Q When were you actually relieved as hospital capo?

A The middle of July.

Q What year?

A 1944.

Q What happened to you in October, 1944?

A I have to mention here that after I had been shanghaied from the hospital, I had to move to Block 9. There I slept with three men in two beds - to my left a German, I in the center, and on my right a Czech. Block 9 is one of the highest elevated blocks in the camp, almost up on top, and walking up and down there was too much for me. I asked my successor, the camp eldest Hul, to transfer me to Block 17. The detail of the weavers was in Block 17 and I was quartered there. I did not go back to the quarry. I thought, "I will just let things come up to me." Besides, at that time there were so many people in the camp that they could not use all of them for work. I should like to mention here that I had a higher pay in the stone quarry than I ever had as camp eldest or hospital capo. At that time it was my job to go with Wodak, who is here in the dock, to distribute these payments in the camp. As camp eldest, I had eight marks, the block eldest had eight marks, and Hul and Dietrich had ten marks. In the hospital I had four marks. We had to pay the prisoners who worked in the SS kitchen. When the commandant entered, he asked Wodak what we were doing there. Wodak said that we were paying the prisoners. The commandant asked, "How much does Mathoi have?" I said, "Sir, I have eight marks." He said, "Well, there are some more with eight marks and even with ten marks." I said, "I never received more than that." He said that he would give me more. I still didn't receive it. Whenever any petty thing happened, such as paper in the light shafts of the kitchen, for instance, when Fritsch was still in the camp, I would lose two marks of my pay. And whenever someone didn't show discipline or conducted himself disorderly,

I had to account for it.

There was supposed to be a bell put near the block leader's house so that the bell could be sounded in the evening after the roll-call had been held and it was correct. He called me in and said, "Camp eldest, tomorrow there will be a bell here." I said, "Captain, I don't know where to get a bell." He said, "That's none of my business where you get it, you idiot!" and he kicked me down the stairs with his boot. I went to the stone quarry and asked for a piece of pipe - quarter pipe - and I told them to weld it up on top and put a piece of metal in the center. This thing I took over to the block leader's room and fastened it there to a piece of iron. When Fritsche came in the evening, he looked at this bell and didn't say anything. After the roll-call, he went to this bell and wanted to take the center piece and wanted to shake it. The piece of iron broke out and Fritsche was so enraged that he took the whole bell down and threw it against my back. He never passed up an opportunity to tell me daily, "Here is where I want to see you, right at the gate and you stand there." I knew for what purpose he wanted me there, just for the purpose of embarrassing me in front of the prisoners, and of course I didn't go. And he always called me back there. His first look was at the gate, whether I was there. An order existed in the camp that you would have to take your cap off for every SS man regardless of who he was. I left my cap in the camp to avoid this nonsense. Fritsche asked me where my cap was. I told him, "In camp." He said, "I know why you don't put one on, so you won't have to take it off." If I wouldn't put on my cap immediately, he would put me in the arrest. What could I do. I had to put on my cap. These are all petty little things, but

there was nothing that this man wouldn't blame me for.

In February, 1944, an order came out that any German who wanted to volunteer for the unit Dillewanger should assemble in the bathroom that night. About 80 to 100 persons volunteered only to get finally out of that camp. When Captain Fritsch arrived in the evening, I had to report to him that so and so many prisoners were in formation in the bathroom. Two clerks had to write down the names of these people, and the next day after the list had been typed, Fritsch called me. The accused Wodak was in the room as well as Sergeant Nies. Fritsch had this list in his hand and he said, "I am missing your name", - why I wouldn't volunteer. I said, "I have been sentenced by the Nazis because of high treason and I was sent to a penitentiary and I won't join the SS." He told me to go to hell. Of course, that wasn't anything to make him like me. I don't have anything more to say about Fritsch.

Q In October of 1944 what happened to you?

A As of October, as I have mentioned before, I didn't do anything more. But, while I was in the stone quarry a barbed wire fence was strung in front of the alleged Russian camp, Blocks 22 and 23, so these blocks would not have any connections with Blocks 20 and 21. People who had typhus were sent there - of course, other people also from transports, the so-called quarantine. Only Jewish doctors were back there, because there was no room left in the hospital, so that this was used as an emergency hospital. These Jewish doctors, Doctor Goldfarb and Doctor Forster, asked me if it wasn't possible that I could get hold of some medicaments for them because I had been a hospital capo previously.

I said, "Write down what you need. I'll get it for you." With this list I went to the hospital, to Doctor Schmitz, and I asked Doctor Schmitz to get me these medicaments. Doctor Schmitz signed these lists. I received the medicaments and took them to these people. It was forbidden by First Lieutenant Baumgartner to take anyone from these blocks to the hospital. It was none of my business and I wouldn't have had to do it but I did it anyway. For that, of course, I was scolded good and proper - I shouldn't meddle with things that were none of my concern. I told Doctor Goldfarb, "You can pick them up yourself", and Doctor Schmitz finally succeeded in getting these patients up to the hospital after introductions on my part of Doctor Goldfarb and Doctor Forster. I have to state that at that time the mortality rate was quite high. I went to these blocks daily and since our death buriers had too much to do and everything was overcrowded, the dead bodies were put down in latrines overnight - I mean, of course, the corpses. In the morning these dead bodies were picked up there, but I can't imagine how a man should fall down into the latrines. There was no water in them but I can't imagine that. It was a so-called mass latrine and there was a hose of 8 to 10 meters in length with which the latrine was cleaned daily. Water was spilled in it.

Doctor Goldfarb and Doctor Forster told me one day that they had to tell me something. I said, "Yes, tell me," and they told me that they had been called the previous day to the commandant, and they told me that the commandant had told them that they would receive orders to make certain injections on certain people, but it was forbidden to them to tell anyone about it. And I said, "Well, why do you tell me about it?" And then they said, "We trust you. We don't think you will betray us." I said, "Well,

what do you want to do now? Do you actually want to do that?" They said, "We are just poor Jews. We can't do anything else." That was all.

PRESIDENT: The court will take a half-hour recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter and Mr. Berkowitz, who are absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Dr. Engelhorn, who are absent on business of the accused; all the accused are present, with the exception of Buddensieg, Oswalt, Olschewski, who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Mr. McKay, proceed with direct examination.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Mathoi, when did you leave the concentration camp of Flossenburg?

A The first time the first of December 1944.

Q Will you explain the occasion of your leaving at that time?

A Yes. On November 30th the commander called me and he told me that on December 12th, the next transport for the unit Dillewanger would leave Flossenburg. He told me that he would send me along with this transport. I didn't say "yes" and I didn't say "no". He said "you do not mean to say that you do not want to go." I said, "in 1937 when I was sentenced, I was excluded from the Army and I received the certificate of exemption from the Army." He said, "that don't make any difference in the Dillewanger unit." I said,

(Mathoi-Direct)

in Fuessen because I had 40 degrees of fever and I was in great pain. But the 12th of December arrived in the meantime. The doctor in the hospital told me that several phone calls had been made about me; that the police had been there and that Koegel had sent a telegram to put me on a transport immediately. The police came to my bed every second day but this whole thing was stretched until the 27th of January 1945. After it was not possible without risking the lives of my next of kin to escape, I had no other way but to let the police take me back to Flossenburg. The police did not bind me and I was not officially escorted by any uniformed man. I was taken to the train station and I was told that if I would not have reported until the next day, 12 o'clock, I would be looked for. The next morning I actually arrived in Flossenburg, reported there to the Adjutant Baumgartner. Baumgartner had a file in his hand. He said, "you will find out when the commander gets back", and he slapped this file across my face. Koegel was not there. He was on a tour of duty and arrived 2 days later. When he arrived he called me. Thereafter I mentioned I had immediately gone to the hospital because I had such a swollen leg that I could hardly walk. Dr. Schmitz told me that I had to go to bed. When the commandant was there he called me and immediately I received some slaps in the face with his fist in the corridor of headquarters, and by his orders Baumgartner had to administer 25 stick strokes to me. That is the way I was lying around till the 3d of March 1945. That was the Saturday and then I was called to the orderly room and 3 other prisoners beside me. We were told to get ready immediately because we were going to be put on the transport to the unit Dillewanger. I have to mention there that we were put in uniforms in the camp. Every man received a knapsack and 2 pairs of socks and no weapons. We were not allowed to return to the camp. We were led immediately

"Commander, I would like to ask you something. Isn't it possible that I can receive, after having been 8 years in a concentration camp, prior to going to this unit, a furlough?" He said, "Since Fuessen is not so far away I will try by telephone to get a furlough for you, a so-called action furlough". I received this furlough, 9 days including travel time. December 1st I went to Fuessen. When I was in Fuessen I had to report to the police immediately. I immediately visited my comrade Soehner, who was here on the witness stand. The family of Soehner owned a dye factory. There was a man, a party member and a good friend of Koegel's, and Koegel told me to visit this Erlinger and greet him. I did that and this Erlinger told me "Within the near future I shall have my neighbor and his wife arrested and I shall bring them there where you are coming from. For one thing, he talks too much to the foreign prisoners of war and for another thing he is everything else but a Nazi. I immediately warned Soelmer about this. Then I asked Soelmer why it was not possible to get me across the border. Soelmer said, "I have a connection to the Swiss border with some people whom I know who are doing duty and I shall try to get you there". I was determined not ever to raise a weapon against any allied soldier for this government that had sentenced me and with which I could not agree. In December 1944 a decree was issued by the Reichfuehrer SS Himmler which had about the following wording: "Everyone who dodges front line service or anyone who deserts the front line, his whole family will be held responsible". In other words, the next of kin of this man would be arrested.

In Fuessen where my wife, my mother, and my sister lived, I had no other way out but to stretch this furlough as long as possible and for that reason I injected one cubic centimeter of petrol into my foot. The next day I was taken to the hospital in

in Fuessen because I had 40 degrees of fever and I was in great pain. But the 12th of December arrived in the meantime. The doctor in the hospital told me that several phone calls had been made about me; that the police had been there and that Koegel had sent a telegram to put me on a transport immediately. The police came to my bed every second day but this whole thing was stretched until the 27th of January 1945. After it was not possible without risking the lives of my next of kin to escape, I had no other way but to let the police take me back to Flossenburg. The police did not bind me and I was not officially escorted by any uniformed man. I was taken to the train station and I was told that if I would not have reported until the next day, 12 o'clock, I would be looked for. The next morning I actually arrived in Flossenburg, reported there to the Adjutant Baumgartner. Baumgartner had a file in his hand. He said, "you will find out when the commander gets back", and he slapped this file across my face. Koegel was not there. He was on a tour of duty and arrived 2 days later. When he arrived he called me. Thereafter I mentioned I had immediately gone to the hospital because I had such a swollen leg that I could hardly walk. Dr. Schmitz told me that I had to go to bed. When the commandant was there he called me and immediately I received some slaps in the face with his fist in the corridor of headquarters, and by his orders Baumgartner had to administer 25 stick strokes to me. That is the way I was lying around till the 3d of March 1945. That was the Saturday and then I was called to the orderly room and 3 other prisoners beside me. We were told to get ready immediately because we were going to be put on the transport to the unit Dirlewanger. I have to mention there that we were put in uniforms in the camp. Every man received a knapsack and 2 pairs of socks and no weapons. We were not allowed to return to the camp. We were led immediately

to the administration section. There we received the pay book with a stamp of the concentration camp Flossenburg. The first sergeant who was armed then took us to Karlsbad over Forst on the Neisse River. About 1½ kilometers in front of Forst, before you reach Forst, there is the village of Mulknitz. Headquarters was there and there we were delivered March 10th.

Q What year?

A 1945. We were told, "you are coming from a concentration camp". We answered "yes". We were told, "you will not be sent to the firing line." You will stay back here with the Signal Corps". These people were evidently afraid that we would desert. That belief was my intention from the first day on. At that time I had to mention that the Russians were on the other side of the Neisse River and on this side the Germans. The shooting was until in the evening. We heard that, I never got any nearer than 10 kilometers within the German trenches. This was too much for me and I ran over with a Luxemburger in the evening, but that was already the beginning of April last year. We deserted to the Russians and we showed our pay books. They saw my stamp "concentration camp Flossenburg" and they believed me that I was a former inmate - political prisoner. It was in the book of my comrade that he was a Luxemburger and had been forced into this unit Dillewanger. Both of us were sent to the Russian prison camp Sagan in Silesia. There I was released on July 26th because of sickness. I had diarrhea. By way of Kottbus Hall Hof I went back to Fuessen to my home and arrived there on the 7th. I have to mention here that I met a friend of mine in Sagan who had been with me in Dachau and Flossenburg. I have to also mention that in the unit Dillewanger no one held rank except officers. It was a so called SS special unit and we were forbidden to wear the

death head of the SS insignia, and we were told that we were not allowed to wear that.

If I may be permitted, I would like to tell the court how the unit Dillewanger was formed and who Dillewanger himself was.

PRESIDENT: Proceed.

A Dillewanger himself was an SS Oberfuehrer which is a little more than an SS Standartenfuehrer - a Colonel. From a reliable man who had known him in his home town - he is from Schwaben, from Wurtenburg - I got information that was confirmed by other people to whom I talked who had been with this unit for years. Dillewanger himself had been punished prior to that 2 or 3 times because of theft. He immediately was taken over to the SS when Hitler came to power and when the war with Russia started he was sent to Russia, was degraded there because of crooked deals and was arrested. He asked Himmler to be allowed to activate a unit combined of people who had been punished in Germany previously for theft and forestry. Later on people from penitentiaries and from concentration camps were taken to that unit. Until 1943, only people with green triangles had been taken and thereafter, also people with red triangles. These people were sent to places where any Wehrmacht officer would have refused to sacrifice the lives of any man. Dillewanger never received any kind of military training. As they arrived they were sent to the firing line. They were degraded Colonels or Captains. As a matter of fact, many degraded officers such as riflemen, outside of the above mentioned people. There were also many people who had infringed laws in the Wehrmacht. In one word it was "a wild unit", and there was no question for me that I would not stay with this unit and fight against any ally. That is why I deserted

and returned home on August 7th. The next day I reported to the police in Fuessen. From the police I was sent to the CIC and to the military government and I reported there also. In Fuessen I opened a concentration camp committee on recommendation from Munich. I did not receive any pay from that because I was an employee of the municipal government of Fuessen. I went quite often to the French zone to Lindau to pick up fruit and fruit juices for the sick people and the people who had been politically persecuted in the hospitals in Fuessen. This is my last travelers pass to Lindau (displaying pass). On February 13th of this year I was arrested.

Q Where was you arrested?

A In Fuessen.

(The travelers pass referred to was marked Defense Exhibit No.13 for identification.)

MR. MCKAY:

At this time I would like to correct an error that was made in identifying an exhibit for the defense. It was a map which was introduced as Defense Exhibit 14 and should be shown as Defense Exhibit 9 rather than 14.

PRESIDENT: The record will be so corrected.

Q I hand you a document which has been marked Defense Exhibit 11 and ask you if that is the pass you have just produced from your pocket and handed to the interpreter.

A Yes.

MR. MCKAY:

Defense offers in evidence Defense Exhibit 11, a pass.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection.

PRESIDENT: Defense Exhibit No. 11 will be received by the court in evidence.

(The pass heretofore marked Defense Exhibit No. 11 for identification was received in evidence as Defense Exhibit No. 11, is attached hereto and is part of the record.)

Q Following your arrest in February of this year where were you taken?

A To the special camp in Dachau.

Q During the time that you have been held since February, have you ever been interrogated with regard to this case?

A Yes.

Q Will you explain the interrogation to the court?

A I had been here for about 8 days in February and then I was taken for my first interrogation. There was a Polish Captain there and Mr. Berkowitz. Mr. Berkowitz told me, "you were the camp eldest in Flossenburg and you are an important witness for us". I asked him what I should testify to and he said about the things that have happened in Flossenburg. I told Mr. Berkowitz immediately I myself beat people. Mr. Berkowitz said that I should help him and he showed me pictures of several people. I cannot say that it lasted too long. It may have been a half hour or three-quarters of an hour. Then I was released again. Sometime later I was again brought up but there the Polish Captain was alone. Then I was again summoned to Colonel Shaw; that was shortly before the beginning of the trial. Colonel Shaw told me a couple of particulars of the accusation. He told me, "you should not be alive anymore". He said, "you know what you did in Flossenburg", and again read to me several particulars of the charge . He said, "why did the Russians release you"? I stopped a moment to think over the answer and he said, "well, because you was a communist in former times, were you". I said, "no, because I was sick". He said, "but I will still accuse you". I said, "I cannot help that". That was all.

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PROSECUTION: At this time I move to strike the entire testimony of this witness with respect to any conversation he had with Colonel Shaw on the ground it is immaterial to the issues of this case.

MR. MOHAN: If it please the court, the intention of this evidence is to give the court a complete picture of this man insofar as possible, and any conversation that he had with the former prosecuter Colonel Shaw, can be given as much weight as the court may deem it is entitled to in order to determine why, if possible, this man may have been required to stand trial. It is one of the facts that this court is to take into consideration in determining the reasons why this man is here. It is always necessary for the court to have such information so that it may give full credibility to the testimony of this accused in his own behalf.

PRESIDENT: Anything further Mr. prosecuter.

PROSECUTION: Nothing further except that it is immaterial and irrelevant, and everything that has been offered by the defense counsel as a reason for its admission would certainly be immaterial and irrelevant. If the court wishes, of course, they could take in the history of this man from the time he was born down to the present time and it would, of course, show a better picture of the accused than has been presented to the court. But the court is normally bound by the issues that are framed in the particulars of the charge.

MR. HALL: If the court please, I feel compelled to make a remark in view of the forthcomming testimony in which I am going to be interested. I assure the court that it is quite material in my cases to develop the history of a man from the very day he was born until the present day in order that this

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court might get a picture of who this man is and I submit that there is going to be an effort to do that in the future and I do hope the court will consider the necessity of that in its deliberations at this time.

PROSECUTION: In reply to that, may it please the court, I certainly hope that the court will confine those matters from the time a man is born down to the present time to those issues and those matters which will shed a light upon the issues that this court is trying at this time.

PRESIDENT: Court will close.

(Whereupon the court recessed at 1610 hours and reconvened at 1620 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Dr. Engelhorn, who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski, and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who are expected to be called as witnesses in this case, they may leave the courtroom.

PRESIDENT: The motion to strike on the part of the prosecution is denied. Proceed, Mr. McKay.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Mathoi, I would like you to explain to the court what the attitude of the inmates was toward you at Flossenburg

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because of your relation with Koegel.

A It was, of course, known to the SS that Koegel was from Fuessen. When I arrived in Flossenburg I had to give my personal data in the orderly room and, of course, in headquarters as every prisoner had to do. When, of course, the prisoners found out that I was from Fuessen and that the commander was from Fuessen, they all thought that I was a friend of his. The wildest rumors were going around in camp. At one time a prisoner said to me, "hey you, your brother is an SA Major"; another one said, "you knew Koegel quite well in former times. Are you a friend of his or your brother", and I explained the following to them. Fuessen is a small village with 7,000 inhabitants. One man knows the next man. In 1928 I saw Koegel for the first time but I knew that he was a Nazi. In 1935 I again saw Koegel. At that time I was employed as a housemaster in the Hotel Liesel in Hohenschwangau near Fuessen. At that time the SS guards of Dachau undertook a visiting tour of our Kings Castles with Koegel. It was also my duty to stand on the parking lot of the hotel and watch the cars of the guests. That day it had been raining hard and Koegel came up to me and said, "dry my coat until I get back". Those are the only words I ever talked to Koegel in all my life. Then I did not see him again until I arrived in Flossenburg.

Q During the time that you were in Flossenburg, I want you to explain to the court just what the situation was with regard to rumor whenever one prisoner would beat another prisoner so severely that he would die as a result.

A That became known immediately. This person would be reported immediately. Besides that he would be beaten up by the inmates of the camp murderously. He received his beatings with a stick or thrown into arrest and was there for about 2 or 3

months until Berlin had committed themselves because this had to be reported to Berlin as well as the post mortum report had to be sent up there also, and after that he would be sent to Mauthausen immediately. I know about one case when the prisoner did not go to Mauthausen, but he received his beatings, was in the arrest, and was then released.

Q Who was that?

A The only reason that he was not sent on the transport was because first sergeant ~~Kubler~~ Kuebler participated in this beating.

Q Who was this man?

A Michof. At that time Jakubith was dragged into this thing. After the investigation had been concluded they found out that Jakubith was innocent, that he had already received his 25 beatings. In one case, Michof busted a Polish bible searchers jaw. ~~Kubler~~ Kuebler brought this man to the hospital and told me "he will hide this man in the convalescent block on the third bed so that the doctor cannot see him". I looked into this man's mouth and I said, "sergeant, this man cannot eat. He will starve to death". I said, "I have to take him to the dentist and the dentist will surely report it to the doctor. I should not dare to report this otherwise he will tell me something different. I still told Dr. Schmitz about it when we made our visit the next day. This man was immediately sent to the French dentist by the name of Trump, who was here on the witness stand. He set his chin, his jaw, and the man was cured. I don't know what ~~Kubler~~ Kuebler got for it. The SS man did not tell us if an SS man was punished for that reason. I mention this to show that it was not very easy to injure a man without anyone knowing about it, or that the prisoner or an SS man would not be punished for it. That could have been different in former times. I only know

(Mathoi-Direct)

about my time while I was in Flossenburg. I only know about this one case of ~~Kebler~~ Kuebler where he was terribly afraid to show this prisoner to anyone.

Q You spoke of Jakubith. What was Jakubith's position at the time of this incident?

A Jakubith was the capo in the stone quarry. I have to emphasize that while I was camp eldest, I went to the stone quarry 2 or 3 times, that is to say only to the orderly room there. For mere curiosity I wanted to go and see how these planes were built and for that reason I went into one of the halls at one time to look at it. An SS man came along and said, "we don't need any factory spies around here..take off", and ever since I went back to the stone quarry or to the halls.

Q During the time that you were hospital capo, did you ever have any case of men brought in from the stone quarry who had been beaten?

A Not from the stone quarry but from the camp.

Q Do you know what happened to Jakubith?

A I don't know what happened to Jakubith. I knew that he received his 25 beatings and was ~~ordered~~ sent back to the stone quarry. At that time he wanted to be relieved. I heard that myself when he asked Captain ~~Fritz~~ Fritsch to be relieved, but Captain ~~Fritz~~ Fritsch just kicked him in the buttocks and chased him back to the stone quarry.

Q Do you know where Jakubith is now?

A Yes, here in the dock.

Q Will you point him out to the court?

A The small man. The third one; No. 21.

Q Mr. Mathoi, you told us that during the time you were camp eldest you lived in block 1. Will you explain to the court

(Mathoi-Direct)

what other type of prisoners lived in block 1 during that time?

A All of the kitchen personnel, all the men who were doing their duty in the food warehouse - Poles, Czechs, Russians, and Germans. Later on after I had been relieved there were also Frenchmen, Italians, and Hungarians there. As I mentioned before, in 1943 when I arrived there was 30% foreigners and 70% Germans.

Q Now Mr. Mathoi, was there anything unusually different about prisoners who lived in block 1 from the prisoners who lived in other barracks from the camp?

A In block 1, I should say about 80% were all capos or else foreigners who held positions. To look at it objectively a block eldest or capo was not a prominent prisoner because they only had duties, not any rights.

Q What do you mean then when you say "prominent prisoner"?

A Prominent prisoners were those who usually had any kind of a position in the camp - orderlies who worked for the SS, SS barbers, those who worked in the supply room and in the warehouse for personnel belongings, the kitchen personnel and personnel from the food warehouse, the capos, the camp eldest, the block eldest, the hospital capos, the male nurses in the hospital. The ones who possessed the most powers in the camp at that time were ~~Golte~~ Golte, my predecessor Ruschert, and the man who held all the strings from every place in his hand in the camp was Joseph Budden. He belonged to Ruschert's club.

Q Do you know where Budden worked while you were in the camp?

A Yes, in the arrest. He was orderly there and interpreter in our Slav languages. He conducted the interrogations in the presence of the SS; that is, he translated everything orally and also translated the letters of these people. Budden

(Mathoi-Direct)

was dangerous. Budden would go to any block in which he heard there was something to drink; went there, drank with the people, and reported the block the next day. Almost daily he approached me while I was still camp eldest and always tried to interrogate me about the commandant and my political attitude, but when I came to Flossenburg and until the time that I became camp eldest I received information about various prisoners. He was too dangerous for me as well as the Serbian Colonel Martain or Martin, I cannot remember exactly. This man activated by orders from headquarters in the fall of 1944 a unit combined from all foreigners; thousands of them to fight partisans, guerrillas. He was a prisoner just like all other prisoners. When I heard about it I asked him, "aren't you ashamed of yourself being a foreigner and taking all your foreign prisoners to activate a unit for this state. He said, "yes, I have to do this for the commander. The commander gave me the orders to do so and if you want to try to prevent it I will have to report you". I was forced to beg him not to do that because I knew what would happen to me. The same thing with Vonstein. I do have to mention this man. Vonstein was a Russian 1st lieutenant and in his civil profession an engineer. Every Saturday he went to the arrest and came back on Monday morning to work in the stone quarry. He was an airplane engineer and airplane constructor and he drew all the charts and blue prints of Russian planes and handed it over to headquarters. He was promoted for that to the obercapo of the armaments factory. Captain Fritsch called all capos, block eldest and clerks from the stone quarry to the roll call square. He said, "Vonstein is under my protection and anyone who touches Vonstein will be thrown into the arrest".

Q Mr. Mathoi, you have spoken a number of times about

(Mathoi-Direct)

capos. Now I want you to explain to the court the difference between a capo and the block eldest.

A The block eldest was within the camp responsible for his block and did not have any power over the capo outside in the work detail. But by order of ~~Brike~~ Fritsch, Brunnartner, and ~~Hubler~~ Kuebler, several capos had to help the block eldest in the blocks after the people had returned from their work. I have to emphasize that every block was supposed to have a maximum of 50 prisoners. Had the maximum not been exceeded, every prisoner would have had his own bed. Until Christmas 1943, that was about the case. In February 1944 there was at least 500 prisoners already in each block and in October and November 1944 there were up to 900 or a thousand prisoners in the blocks. It was impossible for any single man to have a bed for himself. People were sleeping on straw matresses that had been placed on the floor in the dayroom and during the daytime these straw matresses would be put on top of the lockers. Under these circumstances, of course, it was impossible for the block eldest; his clerk, and his orderlies to hurdle all these people orderly since there was blackout. The food had to be distributed in a hurry because the food had to be given out while it was dark in air raids and then one prisoner would steal in the dark the bread of other prisoners. The danger of epidemics was very great in the camps and delousing had to take place every day. Those who had lice were sent down to the bath; their clothes were disinfected and these prisoners were given a bath and they had to wait until their clothes would return.

Q Mr. Mathoi, you speak about packages being distributed in the post office. Did you, as camp eldest have anything to do with distribution of these packages?

A Yes, Captain ~~Hibe~~ Fritsch gave my the orders to help the SS

sergeant Bergmann who was running the post office. He gave me this order in his presence to help him at any time to distribute the packages. For the simple reason that the camp eldest who had been there before me had put these prisoners under pressure, that is to say packages had been opened and whenever he saw something nice he told the prisoners they had to hand it over to him; I have often rejected presents that were offered to me by prisoners from their packages for the reason that I said to myself he doesn't receive packages very often and what he receives he needs for himself. Block eldest tried to make presents to me when I arrived in camp and sometimes cooked some food themselves and placed it on my table. I have always returned it and I was known for it. I didn't want to have anything that I didn't have coming to me and that had not been obtained legally.

Q Mr. Mathei, going back to Jakubith again for a moment. Did you ever see Jakubith in the hospital?

A Yes, Jakubith had yellow jaundice and was in the hospital.

Q Do you know how long he was there?

A I believe 4, 5 weeks. He was in block 16 and I was able to determine at that time and I was surprised about it that many Poles and Russians came to his bed to visit him.

Q During the time that you were in the camp did you know what Jakubith's general reputation was?

A Yes.

Q Explain that to the court.

A All that I can tell the court is that I was told that the smallest cops was Jakubith and he was in the stone quarry, but I never heard that he treated anyone brutally, but I knew

some people who were well known to me as brutal guys that it was peculiar that these people did not live long. Some of them died. They were given fleck fever; some others through infected lice in their bed. I knew about one case about the block eldest in block 33, Bachich, an Austrian. He kicked one prisoner in the stomach and this prisoner ruptured a gut. This prisoner was operated on by Dr. Schmitz. Dr. Schmitz made the report to headquarters. Bachich was reported and while this report was still on the way to Berlin, Bachich died. Then I know this capo, Zimmer. In February 1944 he arrived in Flossenburg from Auschwitz. Zimmer was the assistant capo in the road construction detail. Rumpelsbach, at one time the block eldest of 21 told me that Zimmer was in the block and had demanded 2 portions of bread and the margarine together with it. The block eldest asked him, "why did you want that". He said, "well, there are 2 dead people, I have kicked them around till they died, now I want their bread". When this case was investigated they found out that he had administered chicanery to one of these until this man was desperate and ran into the chain of guards and was shot to death there. The other one he beat and worked so hard that the man died. For one thing, I beat this man Zimmer up good and proper. Ruechert came in when I was beating this man Zimmer. Ruechert reported this thing to Major Schnabel. Schnabel then took his riding crop and drove this man Zimmer through the whole camp beating him with the riding crop. Officially Zimmer received 25 beatings and was sent to Mauthausen. The block eldest Rothacker, formerly capo in the stone quarry became block eldest, shortly before I arrived in Flossenburg, was a wild beater, a beater in this manner; that he would put the pressure on these prisoners as far as their packages were concerned and if they

would not give anything to him he would beat them up. But it wasn't the beating alone these people administered to the prisoners. First they beat them up and then they reported them to the SS. Rothacker died from fleck fever. They threw lice into his bed.

Q Mr. Mathoi, is there anything else that you want to tell the court which I have not asked you during the course of your written examination?

A Yes, if I get the courts permission, I do have to mention this about the camp.

PRESIDENT: Proceed.

A This might look like an act of revenge but it is not. It is my duty to tell this to the court. There are men in the dock here, if I may say so, who do not belong here. Paul Tourmer was one of the men who was a male nurse in block 15 in the hospital. Block 15 was the TB station and Tourmer was leading a nice life there. All prisoners who arrived in camp and had medicaments on them had to hand these medicaments over when they were searched so that nothing wrong was done in the camp with them. When I was camp eldest there it was reported to me that so called drinking orgies were celebrated in the hospital, and that was the so called center for the homosexuals. It was my duty as the camp eldest to follow up this thing otherwise this prisoner would have reported me to headquarters. When I entered the hospital and went into the orderly room there was Gelter, Tourmer, Budden, Hauler, and one other man whose name I have forgotten. I said, "is that all you have to do. Is that all the work you have to do;while all the other prisoners are still out you have to steal in here and drink". Then they started out, "if you think you can tell us anything, if you think you came to

(Mathoi-Direct)

Flossenburg to tell us anything, you damn camp eldest, we will beat you up so damn hard that you will croak". They threatened me quite often that they would attack me at night and beat me to death. But it was not alone the drinking. The bad thing was the sexual errors committed and injections of morphine and evipan. All my talks did not help any. The thing continued. Now, I had the alternative either to make a report or else to take a hand in it myself. In the meantime, however, the SS had found out about it and in February 1944, SS Sergeant Schreiber, who is in the dock, searched block 13. There he found Toerner drunk, with a glass of alcohol in front of him on the table. This was reported to the SS hospital. Toerner was relieved and his lockers were searched. They found the following: A lot of medicaments that were partly spoiled, such as pills, morphine, evipan, and a lot of spoiled food, margarine and bread. I would like to mention something about that bread.

PRESIDENT: The court will adjourn until 9 o'clock Monday morning.

(Whereupon at 1700 hours the court adjourned until 0900 hours 30 September 1946.)

CA/GI 13 Jews

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Final Duplicate Copy

FLOSSENBURG
Case No. .....

Pages 4226 - 4309 incl.

~~Summary~~
~~Intermediate Military Court~~
*General

Prosecutor .....

Defence Counsel

47
1

Place DACHAU, GERMANY

Interpreter

Date 30 September 194 6
0900 - 1700 Hours

Reporter .....

~~Members of Court~~

WITNESSES:

KARL MATHOI

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence { Imprisonment { Term ..... Beginning ..... 194 ..... }
Fine { Amount ..... To be paid before ..... 194 ..... or in case of default of payment to serve a *further term of ..... imprisonment. }

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BUSCH, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

30 Sept. 1946 0900 - 1700 Hours Pages 4226 - 4309 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
KARL MATHOI	4226	4235 4238 4264 4303	4269 4293	4295 4305	4274 4290 4309

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
P-69	Mathoi's Statement	4259	4268

Camp Dachau, Germany
September 30, 1946

MORNING SESSION

477,9/30
lsp

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: ~~May~~ may it please the court, let the record show that all members of the court are present, all of the personnel of the prosecution are present with the exception of Colonel Denson who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Ceding who is absent on business of the accused, and all the accused are present except Buddensieg, Olschewski and Oswalt who are sick in the hospital.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

PRESIDENT: Mr. ~~Mac~~ Mackay, proceed.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. ~~MAC~~ MACKAY:

Q Mr. Mathoi, during the time that you were a prisoner in Flossenburg concentration camp, did you ever come in contact with a man by the name of Gieselman?

A Yes.

Q Will you explain to the court the nature of your acquaintance with Gieselman?

A Yes. When I arrived in camp, Gieselman was one of the first men I got acquainted with, one of the first, who is sitting here in the dock. At that time, he was in charge of the canteen and he was taking care of his written work in the clerk's office in which I myself worked at times.

Q During the entire time that you knew Gieselman did he remain in the prisoner's canteen?

(Mathoi - Direct)

2ap

A No. Gieselman was relieved one day because of the following. At one time one of the trustees whom I had mentioned here before, Ott told the captain that Gieselman did not want to go along any more with the comedy on the part of Fritsch and that he wanted to be relieved. Fritsch called Gieselman immediately after Ott had told him that he slapped Gieselman a few times and relieved him and sent him to the stone quarry immediately. The thing was concurrent with the events that I have described as far as the potato warehouse was concerned because the potato storage room was right next to the canteen. Fritsch told Gieselman that he was tolerating this but he did not tolerate it because for the simple reason that he was not even allowed to leave his block at night. Gieselman was relieved in '43, Christmas, and he worked in the stone quarry until May when he was transferred to block 19 as block eldest.

Q Will you explain to the court the type of prisoners that lived in block 19 during the time Gieselman was block eldest there?

A Only juveniles under 18 years, approximately 900 to 1,000. Of course there wasn't enough room at all. Every day the windows were pushed out because the room was too small. Besides that Gieselman had trouble with older prisoners who wanted to visit this block for the reasons that I have described already. Gieselman came quite often to the hospital when I was there to me with four or five prisoners and told me that this was wrong with them and to give them pills. Of course I always sent them to Dr. Schmits After I had been relieved, I went to visit with Gieselman quite often in the evening because he had many b oks and I wanted to borrow books from him. I like to read. Of ocurse I also saw that Gieselman beat. However I cannot say that I ever saw him with an instrument or a rubber hose.

Q Will you describe these beatings which you saw Gieselman give when you would visit this block.

(Mathol - Direct)

A He hit them against the car wit' his hahd. I cannot say that I saw any prisoner stand on a chair. That could have been some other time. However, I have not seen it.

Q Do you know what the reason for these slappings was by Gieselman?

A Yes. Of course, mostly they would take their blankets, tear them up as I have described before and make foot rags out of them and then steal their neighbor's blankets at night and then there were also people who were dodging the delousing people in the block and would proceed with their blankets and clean laundry and there would be fights because of thiefs who stole bread from the others.

Q Was Gieselman block eldest of block 19 during the time that you were camp eldest?

A No, Milos Kucera was the block eldest then. Kucera was relieved of his position because of an inspection pulled by Fritsch. Fritsch found dirty lockers in the shack and after he had received some slappings was relieved.

Q Do you know what Gieselman's general reputation was in the camp during the time that you were there?

A During the time that I was there I cannot say that Gieselman had a bad reputation.

Q Do you know where Gieselman is today?

A Yes, he is here in the dock.

Q Will you point him out to the court.

A No. 14.

Q During the time that you were a prisoner in Flossenburg did you ever know a man by the name of Ginschel?

A Yes.

Q What is the nature of your acquaintance with Ginschel in Flossenburg?

A I saw Ginschel for the first time when he was the gate runner -- that is to say, he was standing right next to the block

dsp

leader's room and he had to be in the immediate vicinity of the gate all the time, but Ginschel was then relieved because there was some hard work to be done and he could not do that very well with his one arm. He was then given to me. He was sent to the hospital between blocks 13 and 18. There was a wall which separated them from the arrest building and in that wall was a gate. It was his job to keep people from running up towards the hospital or keep people out of the hospital who did not want to see the doctor, who did not have any certificate of permission, but he couldn't do that either because they ran him down. He was then relieved and was sent to block one as an orderly.

Quite a few times in the evening he had the food distribution and he had to sweep the barracks with a broom. I don't know just how he did it because I was in there very seldom, because when Ginschel was in block one, I had been relieved already and I was working in the stone quarry. When I came there in the evening to get some food when he was distributing the surplus food which had been done prior to that by me, I saw several scenes, for instance, that he would step out of the barracks with his whistle and they would run him down.

Q Who would run him down?

A The prisoners. On a Saturady evening I saw him come out of the kitchen. He ha a board on his shoulder which he was holding with his right hand. On this board which was the so-called ration board was the margarine which was designated to be distributed for the prisoners in block one. Some prisoner tripped him and he fell down on the rollcall square and of course all the margarine was smashed. Other than that I don't know anything to say about Ginschel.

Q Do you know what Ginschel's general reputation was in the camp during the time that you were there?

A I can't say that anyone even talked about Ginschel. What

(Mathoi - Direct)

Sep

does this man want to do with his one arm? He himself was a cripple. The prisoners would laugh about him because he was slow.

Q Do you know where Ginschel is today?

A Yes, in the dock.

Q Will you point him out to the court.

A No. 15.

Q While you were a prisoner in Flossenburg did you ever know a man by the name of Raymond Maurer?

A Yes.

Q What was the nature of your acquaintance with Raymond Maurer in Flossenburg?

A It has been a long time ago, in January or February 1944 when I first talked to Maurer. Before that I didn't know him. Maurer came to me and told me about Niehoff. He came to me and cleared up this Niehoff deal but at that time the SS had already conducted investigations and it was found out that Niehoff and Kuebler alone had carried out this deal. At a later time he again came to me and told me that was a man on his block, an Austrian, one who was brutal against his fellow prisoners and who put the pressure on them whenever they received packages. I called this prisoner and asked him about his conduct towards his fellow prisoners. After I found out that Maurer was correct in his statement, I beat this prisoner up. Otherwise, I didn't see Maurer or did not become a friend of his. That was the only time I really saw him.

Q You said you beat the man up. Will you describe just what you did when you beat the man up.

A I slapped him a few times good and properly in the face.

Q What do you mean -- good and properly?

A I mean I didn't hit any too slowly. If I report him, he will be thrown into the arrest and he will receive 25 beatings. That is the very least he will get. It was a principle of mine not to report anyone.

Gap

Q Do you know where Maurer is today?

A Yes, here in the dock.

Q Will you point him out to the court?

A No. 27.

Q Mr. Mathoi, during the course of your examination, you have mentioned many times the trouble you had with prisoners. I would like to have you explain to the court just how these foreign prisoners acted among themselves.

A I believe that I am correct and that I can give a true picture of the situation to the court.

Q Explain that to the court.

A According to the general observation not only by me but by others also, the Poles didn't like the Russians, the Poles didn't like the Frenchmen. The Czechs like the Russians. The Russians didn't like the Poles. The Italians were invidious individ ale generally. The Yugoslavs didn't like the Poles. It was an everlasting fight there and after working hours in the evening when there was free time, you could always see certain groups be together. They always beat themselves up and even stabbed themselves with self fabricated knives made out of duraluminum, the airplane metal. Every prisoner received a winter overcoat and sweater. Every once in a while the rollcall leader would spot check the prisoners. The prisoners would have to be in their blocks, open their jackets and he would see if they had their sweaters on. It was peculiar that the Russians actually always had sweaters and the Italians almost never had any. Either they sold it on the black market or others stole it from them and they sold it on the black market. It was a helter skelter situation. It was impossible to find your way around because the camp was so overcrowded, so that you did not know any individual person. It was only theft and black marketing and so forth. That is all I have to say.

Fsp

MR. ~~MAC KAY~~ McKay: You may cross examine.

PRESIDENT: Mathoi, have you anything further to say to the court at the present time?

A Yes.

PRESIDENT: I t ink, Mr. Mac Kay, he should be given an opportunity to make any statement.

MR. ~~MAC KAY~~ McKay: Pardon me, Sir. I overlooked that.

PRESIDENT: Go ahead.

A There were a thousand or 1200 Germans I should say in the camp. Despite the fact that so many Germans were there, I should say that 60 ~~percent~~ per cent of all the positions were taken by foreigners. For instance, the block clerks there were maybe approximately three Germans and the other 15 or 16 were foreigners, Czechs or Poles. In the warehouse for personal belongings of the prisoners for their clothes and their personal belongings were only foreigners. In the prisoner's warehouse there were two Russian PW's and one German. In the prisoner's kitchen there were 35 people only cooks who worked there. There were six to eight Germans. The others were foreigners. Except for two orderlies, all the rest of them were foreigners. SS barbers were three Germans. The others were foreigners. The prisoners dentist was a foreigner who was here in the witness chair. His name was Trupp. Generally everywhere in every position wherever you looked were mostly foreigners and if you wanted something special that you could not get by requisition from the SS for the camp, you would have to go to these people. The distribution of brooms, soap and any cleaning material was up to the man who was in the witness chair here, Pletanek a Czech. He was in charge of that. I should like to tell the court that all of these men who accused me here who were witnesses committed some kind of a violation against their own fellow prisoners or made their statements here out of hatred. I should like to describe to the court one case to picture how difficult it was to

Sep

check at night after all the other prisoners had been in bed in their blocks. When I was camp eldest there was no shooting in the camp. I caught several prisoners at night. I sent them back to their beds but I did not make any report. When I was the hospital capo, two shootings took place at night in the camp. My successor caught one a prisoner who had broken into the Kitchen. He was a Russian. He immediately reported this to the block leader's room. Two of the block leaders came in. They chased the prisoner outside and shot him to death outside on the staircase. The former block leader Herde who is now in the special camp here told me at one time -- I don't know whether it's an actual fact -- I didn't see it -- but he told me sonce that he went back to the warehouse where the cabbage was stored and that he sat down ~~inbetween~~ in between the cabbage barrels. A Russian prisoner who had left his block at night hid in this cabbage room and took one handful of sourkraut. Herde shot him to death right there where he was. The next morning at rollcall, the hospital was immediately informed about it and I went back there with two male nurses and a ~~liter~~ litter to pick this man up. The two male nurses arrived at this spot maybe a minute before I did. Then Herde said, "He is still alive, I will shoot him once more so you can save your bandaging material". Besides that I picked out of the books here all prisoners by the name of Martinek because the prosecution witness Bommelaer stated that I had beaten a prisoner by the name of Martinek so severely that he had died from it. Also the Frenchman Croise whom I allegedly beat to death with a pick is still alive. All these people are alive.

I should like to talk about the case about which the Czech Kamenek talked. There was no breakfast whatsoever on Sunday for any prisoner. In February 1944 the wall behind block 11 broke down and pushed in the whole rear end of the block. I asked some prisoners who were masons if they could not put this wall up again on Sunday

sp

morning. The prisoners agreed but they wanted a breakfast for it. I went to the kitchen and begged for the breakfast for these men. These breakfasts were given to me in a cardboard box, and I went with it to block 11. I put this cardboard box down at the corner and went around and called the prisoners so I could give it to them. In the meantime a Russian had approached this box and had taken two pieces of bread out of it. I caught him and I slapped him once in the face. The man fell down and struck a bucket in which was cement. This prisoner was taken to the hospital. He had a hole in the back of his head and at noontime he was out of the hospital again. Kamenek accused me for the simple reason because his prisoners who worked under him in the woodyard told me twice that he embezzled their breakfast bread. Had I reported Kamenek, he would have been thrown into the arrest and would have received 25 beatings. This way I hit him several times in the face with my flat hand.

I should also like to state for the court that if I had taken the life of anyone, I would have never returned to my home. In the Allgaeu Zeitung it said all persons who knew something about block elders and capos in Flossenburg should report and make their statements. If I had had a bad conscience, I would have dodged this, but this way I did not have any reason whatsoever to take any interest in it. I rejected every time to assist in any kind of an execution and by risking my own life and there would be no reason for me whatsoever to take the life of any man illegally. That is all I have to say.

PRESIDENT: The court understands Mathoi, that is all you have to say at the present time.

ACCUSED: I have one more thing. I seem to have been or at least that is what it looked like -- the only prisoner who had received any kind of a furlough in Flossenburg. Every prisoner who was released from Flossenburg and sent to the Wehrmacht received a furlough outside of those who went to ~~Urlaubanger~~ Hillewanger. I was also one of those who was

(Mathoi - Direct)

sp never allowed to receive any visitor because Koegel probably didn't want it. He was probably afraid I would talk. The prisoner Lesak who was here on the witness stand received a furlough. He went home and he returned. That is all.

PRESIDENT: Cross examination. Colonel Denson?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Mathoi, is the manner in which you slapped that man, that fellow down and knocked a hole in his head on this Sunday morning, the same manner in which you boxed the ears of other prisoners?

A No, it all was so fast that I just caught him with the back of my hand because he wanted to run away.

Q So that you didn't hit him as hard as you usually hit the other prisoners that you had to punish in order to keep from making a report, is that correct?

A That can be correct, yes.

Q Now you have stated to the court your relationship of the different nationalities to each other, the Czechs to the Russians, and the Poles to the Russians and the Italians to the Russians and the French, etc. Would you please describe to the court or tell them who it was that was liked by the Germans.

A That is hard to say. To say with one word, the Germans were hated because understandably the foreigners saw in every German their enemy. The same thing would have happened to me if I would have been incarcerated in a foreign country. I cannot love any member of any nation which threw me into the concentration camp.

Q Well, tell the court please, Mathoi, whom it was that the Germans loved.

A To get along with best were the Czechs because the Czechs caused the least trouble. They were clean and they never caused any attention.

Q Lasek was a Czech, was he not?

llsp

A Yes.

Q Kamenek was also a Czech, wasn't he?

A He was also Czech, yes.

Q Now tell the court please, Mathoi, approximately what percentage of the capos were German.

A Well, as I have stated before when I arrived in Flossenburg in '43 at that time more Germans were capos. I of course include the Austrians in that when I say Germans, but in January or February 1944 this picture changed considerably. Mainly in the warehouse for personal belongings there was no German whatsoever.

Q Well now, tell the court what percentage of those German capos were the wearers of the green triangles for criminals.

MR. ~~MAC KAY~~ McKay Objection. It is objected to as improper in form in that it states that the wearers of the green triangle were habitual criminals which is a misstatement of fact.

PROSECUTION: I have a perfect right to refer to them as criminals or the wearers of the green triangle in view of the testimony from their own witness by the name of Pfister . The court will recall that he testified that those prisoners who wore green triangles were criminal prisoners and that being in the evidence, I have a perfect right to refer to them in that manner.

PRESIDENT: Anything further, Mr. Mac Kay?

MR. ~~MAC KAY~~ McKay: Nothing further.

PRESIDENT: Objection overruled.

(Whereupon the question was repeated in German by the interpreter).

A I shall endeavor to tell the exact truth how it was when I arrived in lossenburg. I can't state exactly however whether it won't change as far as two or three men are concerned. In block two there was a block eldest who had a red triangle but he was released the same month when I arrived. In the hospital was Golts, besides

(Mathoi - Cross)

12sp

that Toermer. That is about all the Germans. I can't remember anyone else.

Q You don't know anything with respect to the capos of the outside details?

A I at times looked into the books but I did not know the capos of the outside details. That was very difficult. I know one man. He was in the outside detail, Gravenhoit and he had a red triangle. I only know the man from this outside detail because this man ~~Heitbeiter~~ Gravenhoit came to the main camp every 14 days. Otherwise I wouldn't have known him either.

Q Now, those that you have named were red triangles, is that correct?

A Yes, red.

Q And all the rest of them were green?

A Green and partly black.

Q So that, is it not a fact, Pathoi, that in those places where property or valuables were kept the positions were held by the foreigners and not by the wearers of the green triangle?

A Yes, as I mentioned in the warehouse for personal belongings I never saw a German there. The leader of the detail here, the commando leader, Sergeant Schneider asked me at one time whether I didn't know a prisoner for his detail. I suggested several men to him. He didn't want anyone of them. He took another foreigner.

PRESIDENT: Court will take a half hour recess.

(Thereupon at 1000 hours the court recessed.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: If it please the court, let the record show that all the personnal of the court are present, all the personnal of the prosecution are present with the exception of Mr. Berkowits and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding and Mr. Hall who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital and Hoinisch who is absent on business with his counsel. The interests of these accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Cross examination, proceed.

CROSS EXAMINATION (Continued)

QUESTIONS BY THE PROSECUTION:

Q Now Mathoi, while you were capo in the hospital, how frequently did you treat persons in the hospital, prisoners who had been beaten?

A I only know of this one incident which I already described with regard to Bakisch. And then prisoners would come rather often to the hospital with a hole in his head, but would say that he got it in work in the quarry.

Q Was it forbidden for a prisoner to state that he had received that injury as a result of a beating?

A That was not forbidden to them.

Q As a manner of practice, isn't it a fact that prisoners did not say that they had received their injury as a result of a beating?

A No, as I know the prisoners from Flossenburg, I would say that if prisoners had received an injury as a result of being beaten, they would certainly have said where they got it.

Q What would happen to a prisoner who stated that he had been beaten by a capo?

A To a prisoner? Nothing would have happened to the prisoner. The capo would have been punished and relieved of his duties, and the capo would have thought twice before he hit a prisoner again.

Q Do you know of any instances other than the one you described where capos were relieved for mistreatment of prisoners?

A I know of this one incident of capo Zimmer which I described.

Q Other than that one instance, do you know of any others?

A I can't answer that question so quickly; I'd have to think about it.

Q Well, let me ask you this—when you testified on Gieselman's examination that one prisoner beat another to death, do you mean that one of those prisoners was a capo?

A This one prisoner, this Mr. Zimmer, he was a capo.

Q Well, was that the only instance you had in mind when you testified on Gieselman's examination that one prisoner beat another to death?

A I have been searching my mind whether I know of any other incident, but with all my best will, I can't think of any other. But I know of two cases where orderlies were relieved of their duties.

One was a Pole; the other was a German and I was with Major Schnabel in block 23 and the prisoners complained that these people were beating them. Major Schnabel himself beat these two people in question, and had them immediately relieved of their duties. In fact, it was a particular weakness of Major Schnabel that whenever a prisoner was beaten severely and had visible effects afterwards, or had later trouble in the hospital, Major Schnabel would always report.

Q Is it not a fact that the reason these prisoners tore up the blankets was to make feet rags because they didn't have any shoes?

A Prisoners always had shoes.

Q Well, what was the occasion of the prisoners tearing up the blankets to make footwear?

A The blankets were not principally torn up to make foot rags, but in order to make clothing for the upper part of their bodies.

Q Well you testified this morning here, did you not, that Giesalman had beaten these prisoners for tearing blankets for the purpose of making foot rags? Didn't you so testify this morning?

A Yes, but I didn't add then when I said that that the principal reason was to provide clothing for the upper part of their bodies. If you allow, Mr. Prosecutor, I would like to describe to you very shortly how they did that with the blankets. (Indicating) They would put three holes in the blanket and put their head and arms through and draw the blanket on them.

Q Also tell the court how they tore up these blankets to make foot rags.

A. Yes, the blankets at any rate were torn lengthwise into

smaller pieces.

Q And what did they do with those smaller pieces?

A They wrapped them everywhere around their legs and feet.

Q Well, what was the purpose of wrapping them around their feet?

A Because the foot rags were no good and the people didn't want to go to the clothing room and get more foot rags because they didn't always get them, I know that.

Q What was the function of these foot rags?

A To wrap up the feet because you couldn't run around in wooden shoes barefooted because you would rub your feet raw.

Q In other words then, the only shoes they had then were the wooden shoes, is that correct?

A Yes, most of them wore wooden shoes.

Q And they would use these strips of blanket then to wrap up the feet to protect them from the cold, is that correct?

A Yes.

Q Now when you came to Flossenburg in the fall of '43, could you give the court any idea of the approximate mortality rate that existed there in the camp from the time you got there until the first of the year, '44?

A Then I would have to be more precise and limited. For example, I would have to tell you about 2 or 3 month periods.

Q Will you please tell the court approximately what was the death rate during the month of November, 1943?

A If I would estimate that according to my best ability, then on one day it would be 3, 4, 5 or 6 people, but I also know of days when nobody died.

Q Again I ask you the average of the death rate for November, 1943.

A 4 or 5.

Q You mean the ratio?

A Then you could say 5 or 6.

Q In other words, 5 or 6 persons died on the average each day in Flossenburg in the month of November, 1943, is that correct?

A Yes, you could probably say that.

Q And approximately what was the average death rate per day in Flossenburg in the month of December, 1943?

A It would probably be about the same.

Q All right, now tell the court if you will, what was the average daily death rate for the year of 1944?

PRESIDENT: Dr. Wacker, do you have something?

DR. WACKER: I think there is a misunderstanding here. The prosecution is constantly talking about the percentage of the mortality rate and the prisoner is talking about the people and he is giving the number for the period.

PROSECUTION: I am afraid that the Doctor has misunderstood the question. I said the average death rate. I didn't mention percent.

PRESIDENT: I don't believe, Dr. Wacker, there has been a misunderstanding of the witness. The court will be glad to hear from you later. Go ahead.

A I see through the objection of Dr. Wacker that I did say that a little wrong. I would like to change that from 5 or 6 to 4 or 5. In January or February it was considerable more. It would be 6 or 7 people per day.

Q Well can you, instead of taking each month, give the court the approximate average daily death rate for the year of 1944 in Flossenburg?

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A The great mortality rate in Vlosxenburg began in October, '44.

Q Can you give the court, please, what the average daily death rate was for the year of 1944? I am not asking about any particular month, but the average throughout the entire year, daily average.

A I can't give you a yes or no answer to that. It is very hard to say. In the summer there were very few deaths because the large numbers of dead people weren't arriving from the outside. In October the number increased and from that time onward, I could give a more precise answer.

Q All right, give the court your more precise answer, if you will?

A In October, there often were 15 or 16 a day dead.

Q And in November of '44?

A The number got even bigger. It could have been 22, 23 or 25 a day. Would you allow me, Mr. Prosecutor, to add something in this respect?

Q Go ahead.

A All these people who returned from outside camps and were marked as incapable of working when they came back, they were marked as dead on the records in Flossenburg. In November, '44, it was the worst. All these people who died of fleck typhus in Hersbruck went to Flossenburg then. And Leitmeritz was a bad outside camp. You could say that every week 20 or 23 people would come from Leitmeritz.

Q Now Mathoi, when these people you say were brought back from outside camps when they were no longer able to work and were listed as dead, were they put in blocks 21, 22, 23 and 24?

A They were first of all bathed in the bath and then they

received fresh clothing, fresh underwear and came to the blocks, but before the people went to the blocks, the ones who were seriously ill were picked out and sent to the hospital. The doctor wanted to examine them immediately.

Q Well, now the people who were not able to work were put in blocks 21, 22, 23 and 24 is that not correct?

A There were also people who weren't able or capable of working in other blocks.

Q Now it is true that these people who were not able to work who likewise were listed as dead, they were put in blocks 21, 22, 23 and 24, were they not?

A Yes.

Q And is it not a fact that the death rate was higher in those four blocks than in any other blocks of the camp?

A Yes, of course.

Q And isn't it a further fact that the people in those blocks, 21, 22, 23 and 24, did not receive the same ration that the prisoners who occupied the other blocks received?

A They got the same rations.

Q Did they get the same quantity?

A I wouldn't know that they didn't receive their full rations.

Q Do you know whether or not they got the same quantity that the other prisoners received?

A These prisoners got their food somewhat earlier but the quantity was the same because the kettles had to be emptied. There were not enough kettles in the camp and they couldn't distribute the food at the same time.

Q Was it not a fact that these prisoners were classified as non-working prisoners?

A Yes, they classified these prisoners as incapable of working.

Q And isn't it a further fact, Mathoi, that those prisoners who were able to work received a different ration than those prisoners who were unable to work?

A Yes, these people didn't get any breakfast because they didn't work.

Q So that they did in fact then receive only two meals a day, is that correct?

A Yes, but you couldn't regard what you got in the morning as a meal.

Q Well, what was the hour--the first planned time that these prisoners in blocks 21, 22, 23 and 24 ate?

A They usually got it at 10:30 in the morning and at 4:30 they got their bread, their portion and their coffee.

Q And that is all they got per day, is that correct?

A In the morning they got coffee, but you couldn't call it coffee.

Q While you were capo in the hospital, Mathoi, approximately how many post-mortems were made there on the prisoners?

A I made 30 all myself, for sure.

Q Well, who else was making them besides yourself?

A A Pole they called Zueffel, I don't know his last name anymore.

Q I would like to have the number of people that were making the post-mortems themselves.

A 2 or 3 besides me for sure.

Q Well, did they make as many post-mortems or less than you did?

A The others performed more than I did.

Q And in your judgment Mathoi, approximately how many post-mortems were performed by these other men there in the hospital?

A There were post-mortems carried out by people I didn't know at all. Everybody had a post-mortem who died from meningitis, that is, inflammation of the cerebral membrane.

Q Well, can you still give the court any idea as to the number of post-mortems that were performed by these other attendants?

A Together they perhaps carried out 60, twice as many as I did.

Q In other words, each one of them carried out 60 or together they carried out 60?

A Altogether.

Q So that there were a total then of 90 post-mortems which

were performed while you were hospital cops is that correct?

A Yes, you could say that.

Q And approximately how many of these were post-mortems for meningitis?

A 20 for sure. Also those people had a post-mortem performed on them who died from drinking menthol alcohol.

Q And approximately how many were there of these?

A Just a second, I can tell you exactly--6 or 7.

Q And the rest of them were those who had died of unnatural causes, is that correct?

A Yes, either because an accident occurred or they were shot to death. And those people who died from gangrene which set in because of infection through duraluminum--those people were also given a post-mortem.

Q Well, that wasn't considered to be unnatural, was it?

A No, all those who died an unnatural death were given a

post-mortem but also a number of people were given a post-mortem who had not died an unnatural death and didn't have to be dissected.

Q And approximately how many post-mortems were performed on those who died from accident?

A I can't give you an exact number on that.

Q Have you any judgment about that?

A I would estimate certainly 20 or 25.

Q And where did these accidents occur?

A Usually in the quarry and in the armament works.

Q And approximately how many post-mortems were performed on those who had been shot to death?

A That could have been also around 20.

Q And approximately how many post-mortems were performed on those who had been beaten to death?

A I only know of two, and in the one case I wasn't even capo of the hospital then. I was still camp eldest.

Q Well, how many were performed during the time you were hospital capo?

A One.

Q Now the only medical training you had received was that which you had while you were a prisoner in Dachau, is that not true?

A In Dachau and in Auschwitz. In Auschwitz I was with three Polish professors, and one of them was the most famous court physician in Poland, Professor Dr. Hans Olbrischa.

Q How do you know of your knowledge approximately how many post-mortems were performed in the year 1945?

A No, because at that time I had no access to the hospital as it was forbidden to me. I never let myself be seen there because fleck typhus was raging and I was afraid of fleck tyhus.

Q Well do you have any judgment as to the number of post-mortems performed at the time you were camp eldest?

A I don't know that because I didn't go into the dissection room as it was still in the crematorium and I didn't go in there. I know of one case where a man was dissected. He was a German and had been shot to death by Capt. Fritsch with a pistol in the camp on Christmas eve. Post-mortems were also per ormed on people who had been publicly executed in the roll call square.

Q And that was considered to be an unnatural death, is that correct?

A Yes, of course.

Q And approximately how many people were executed during the time that you were capo in the hospital?

A As I said before, that could be between 80 or 90.

Q That is how many were executed?

A No, that number includes all those that I have described up to this time.

Q Well then, answer the question please. How many were executed at the time you were hospital capo?

A May I say there, including those people who were executed in the arrest building and also on the roll call square?

Q Approximately how many were executed during the time you were hospital capo?

A I would estimate 200 for sure. That was from April until the 11th of July when I was relieved of my duties.

Q Now who was it that put the noose around the prisoner's neck when the prisoner was hanged?

A That was usually blockeldest Brodels. He was an SS Lieutenant and he voluntarily reported for this duty.

PRESIDENT: Dr. Wacker?

DR. WACKER: S. A. Lieutenant.

Q Was he a prisoner at that time?

A Yes, a homosexual.

Q How did you ever put the rope around the prisoner's neck to be hanged?

A No.

Q Never at any time?

A No.

Q Is it not a fact that you did beat prisoners in the clerk's office at the time you were camp oldest?

A Yes, of course. I had to do it. I was given orders to do it when I was camp oldest. The SS captain was there.

Q And what instrument did you use to beat the prisoners at that time?

A With a whip.

Q Will you describe that whip to the court please?

A Yes, it was approximately 80 centimeters long and was 2 or 2½ centimeters thick at the butt where you had the handle.

Q And how thick was it at the other end?

A 1½ centimeters.

Q And out of what material was it made, Mathoi?

A Leather.

Q And how frequently did you beat the prisoners there in the clerk's office?

A 5 or 6 times and I tried to get out of it as much as I could. I went over and sat in block 1.

Q Were there any reports made to the SS while you were camp oldest?

A Yes, but not for me.

Q Well, didn't you state that those reports would have to go through you as camp oldest?

A Yes, of course, but Brodsis was one of these people who never bothered with me at all and didn't even consider me although the report should have gone by way of me. They should have been written up in the clerk's office. The block leaders would bring them to the clerk's office. They had written down the report in draft with pencil on a piece of paper and then the reports were supposed to be formally typed up and I tore up every one of these reports which I could get my hands on.

Q Did they have to contain your signature before they could be sent forward to the commander of the protective custody camp?

A No, the one who made the report put his signature on it.

Q And then it was your duty to take it into the protective custody leader, is that correct?

A I never sent a report on, but that was what I was supposed to do.

Q After the time that you had been relieved of camp oldest, were reports made against the prisoners?

A Yes, of course.

Q And did you hear that prior to the time that you took over the position of camp oldest that reports were made against prisoners?

A Yes, of course, that was the way it was as a rule.

Q Now you testified that when you caught prisoners stealing packages you beat them up with a rubber hose, is that correct?

A Yes.

Q Well, will you explain to the court why it was that you didn't give the prisoners merely slaps with the hand as Hauser and Jakubith did instead of beating them with a rubber hose?

MR. MC KAY: The question is objected to as going beyond the scope of direct examination. This witness has made no comment or statement with regard to Hauser during his direct examination.

PROSECUTION: And he would not have to make any statement with respect to Hauser or with respect to Jakubith in order for that to be a proper question. I have asked him to explain in the course of conduct which has been described to him.

PRESIDENT: Mr. Mc Kay, your objection is based on reference to Hauser in particular, is that correct?

MR. MC KAY: Yes sir.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1120 hours.)

(Whereupon the court was opened at 1135 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Colonel Wilson and Major Oeding who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski and Oswald who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of defense counsel, Mr. Mc Kay, is sustained.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

(Mathoi - Cross)

CROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continued):

Q Well, explain to the court, if you please, Mathai, why it was that you didn't give slaps of the hand instead of beating them with a rubber hose.

A Because too many people observed that. If I had merely slapped them, I would have been reported and the prisoner would have been reported and the prisoner would have had the disadvantage of being hanged by the neck. If I gave the prisoner 5 or 6 blows across the back, then the case is closed. I must emphasize the difference here between rubber hose and rubber club. A rubber hose is something hollow and a rubber club is something solid which the

police use and which we did not have in the camp. We never had it.

Q Now you testified that you would have been reported and the prisoner would have been reported if you would have merely given slaps by the hand is that true throughout the camp?

A Yes, it was like this. There were spies in the camp and they would run over and report me and the prisoner as well.

Q In other words, you would have been reported for giving a slap by the hand, but not reported for giving a beating with a rubber hose, is that correct?

A Yes, if they knew that the camp eldest beat with a rubber hose, they didn't even bother to take notice.

Q And that is the reason why you beat with a rubber hose instead of your hand, is that correct?

A Yes.

Q But it was forbidden was it not for capos and camp eldests to beat prisoners under any conditions?

(Mathoi - Cross)

A Yes, it was legally forbidden so that the people who ran the camp could punish the prisoner's beater but since he was a fellow prisoner of mine, how could I report him. Then I would be the right-hand man of the SS if I did that.

Q Well, is it not strange that you would be reported for not beating a prisoner enough?

A No, if the SS or a Blockleader saw that, he would report me anyway. He would say why did you beat him at all.

Q So that the only reports that would be made against you then for slapping with the hand would come from the prisoner, is that correct?

A Yes, also the SS carried news of that to Captain Pritsch and the roll call leader. It wasn't the same thing when a prisoner beat another as when an SS beat a prisoner. Actually according to the books, a prisoner wasn't allowed to beat another prisoner and besides that I never told any prisoner why I was beating the other prisoner. I had to be careful because that prisoner would go and report it and the prisoner whom I had beaten would be reported and I, as well, would be punished.

Q In other words, many prisoners saw you beating other prisoners with a rubber hose?

A Yes.

Q And isn't that the reason why you were hated throughout the camp?

A No, that wasn't the reason. On the contrary, people whom I had never spoken to would tell me that was a fine gesture of yours that you never reported prisoners.

Q It is a fine gesture of yours that you beat people with a rubber hose instead of slapping them on the ears, is that correct?

MR. MC KAY: The question is objected to as being argumentative in form.

PROSECUTION: Nothing argumentative about that, may it please the court.

PRESIDENT: Objection overruled.

A I didn't understand the question.

(Thereupon the interpreter repeated the question.)

A No, they didn't say that either, of course. If I had not beaten the prisoner, the prisoner and I would have been reported. I would have received blows, the prisoner would have ended up in the arrest building and the situation would have been just as bad as before and he would still have been punished.

Q How you stood at the gate each day did you not while you were camp eldest and kicked the prisoners as they came by?

A I told the court yesterday that if I hadn't stood there, Captain Fritsch would have made me come. It was my orders to stand there, and if a prisoner didn't march in step or didn't keep his hands at his side or didn't take off his cap then first of all the caps would receive slaps from Fritsch and I also, and the prisoner in the bargain, and for that reason Fritsch kept insisting that I kick the prisoners in the rear.

Q How were these slaps or were these blows with a rubber hose?

A On such occasions I didn't strike with the hand at all. I merely gave them a kick in the rear because Fritsch had told me to do so.

Q And on these occasions when you slapped with the hand, is it not a fact that you could have been reported?

(Mathei - Cross)

A Yes, Fritsch was just waiting for that. He was just waiting to hear that I disfigured a prisoner and he would want to rub me out. It was a deadly system to play off one prisoner against the other.

Q And that is what was done in Flossenbürg is that not correct?

A I can't say anything different.

Q You you refused to obey the orders of the SS and you received only a kick in the rear, is that not correct?

A Yes.

Q And it is also true is it not that you refused to obey the orders of the SS lieutenant colonel who was in command of the camp and you only received a slap in the face?

A Yes, with his fist and not once, three times, and he constantly threatened he would send me to Mauthausen; and for that reason he didn't let my brother and sister visit me in camp because he was afraid I would squeal on him.

Q How many dentists did they have in the hospital at the time you were there?

A I only knew of one prisoner dentist, that is, only one dentist for the prisoners.

Q And approximately how many prisoners did they have in the camp at that time?

A What period of time is the prosecutor talking about?

Q The period of time that they only had one dentist for the prisoners.

A There was, as long as I know, only one dentist for the prisoners.

(Mathot - Cross)

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Q And what was the greatest number of prisoners that were there in Flossenburg during the time that you were there?

A 12 to 13 thousand, but not including the outside camp. I am only talking about the main camp of Flossenburg itself.

Q Now, approximately how many beds did they have in the hospital at the time you were hospital capo?

A I can't tell you that.

Q Well, you were in the hospital every day were you not?

A Yes of course.

Q And you went from ward to ward looking after the patients did you not?

A Yes.

Q And you had an opportunity to observe the beds that were in the hospital available to prisoners, did you not?

A Yes.

Q And based on your observations, give the court your best judgment as to the number of beds they had there in the hospital.

A In the hospital, without counting the convalescent ward, I would say 180 to 200.

Q And approximately how many did they have in the convalescent ward?

A Convalescent ward--that was only one block, about 16. 150 to 200. It could have been 200 because in the lounge in block 16 there were also some beds set up.

Q And approximately how many prisoners were in the hospital that is, the greatest number that was in the hospital during the time that you were hospital capo?

A 450 or 460.

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Q And approximately what was the greatest number in the convalescent ward during the time you were capo?

A Including the convalescent ward, I have recorded 700 in the morning.

Q And did these prisoners who were in the convalescent ward have the same clothing that was issued to prisoners who were worked on the outside?

A Yes, of course, when they were released, they got the same clothing.

Q While they were in the convalescent ward, tell the court what clothing these prisoners had.

A Underdrawers and shirts. All the other things went to the disinfection room and to the laundry.

Q How many patients were there, Mathoi, in that section of the hospital which was reserved for the Germans?

A There were only 15 beds there where the Germans reported.

Q And approximately how many Germans occupied each one of these beds?

A When the space was full there would be 15 patients in it. No more, and if this hall was full and more patients wanted to get into it they would have to go into the other rooms with the other people. I saw three men lying on two beds pushed together.

Q Now isn't it a fact that when you had difficulty in getting these prisoners into line when they were reporting to the hospital, you would have to beat them with a rubber hose?

A No.

Q What did you beat them with?

A Those who had to line up according to order, I never beat them. I only beat those people who forced their way into the halls

and had lice in their clothing, and those people who went into the laundry or the kitchen to steal food.

Q And to what extent did you beat these prisoners?

A I gave them a slap on the ear.

Q And were you not reported for that?

A No.

Q Now you testified with respect to being unable to throw a man out of the front windows on account of the bars. Will you describe to the court what the windows were in the rear of the hospital?

A (Indicating) In the rear of the hospital, it was completely impossible to throw anyone out of the window, it was so narrow.

Q It wasn't narrow enough to keep people out who came in to steal food was it?

A Yes, but they climbed into the window.

Q While you were in the hospital, is it not a fact that you were Golts' superior?

A Officially I was supposed to have been that but Golts never let me tell him anything.

Q Well, you were the senior among the prisoners in the hospital, were you not?

A Yes, of course officially I was supposed to be that.

Q And that was true also with respect to Former, wasn't it?

A Former was not my subordinate. Former was relieved of his duties at the beginning of March, '44. At that time I wasn't in the hospital at all.

Q Now you testified that because you failed to carry out their orders, the commander of the camp and Kuebler, you were removed from the hospital as cape in July 1944, is that correct?

(Mathei - Cross)

A Not for that reason alone, but especially because of this incident on the special building which I described for the court.

Q And as punishment for that, you were relieved of your duties of that as espo and sent to the quarry, is that correct?

A Yes, Kuebler came every day with the commander into the hospital and sniffed around. Actually, he had no business there and he was forbidden to enter the hospital.

Q Now was the man who reported you, the same Wolf who is sitting over in the dock?

A Yes.

Q Jakubith was the espo in the detail in the quarry at the time you were sent there, is that not so?

A Yes.

Q Now you testified that Paul Former and Golts hated you, is it not a fact that the reason why you are mad at Paul Former is because he refused to testify in your behalf in this court?

A No, I don't have any feeling of hatred at all in regard to a former prisoner, but it is my opinion that when you sit in a glass house, you shouldn't throw stones.

Q Isn't it also true that you requested Former to talk in your behalf?

A I said to him, won't you come and testify in my behalf. I can't actually invite him to come. It was a question, not a request.

(Statement of Karl Mathoi was marked Prosecution Exhibit No. 69 for identification.)

Q Mathoi, I hand you a document which has been marked Prosecution Exhibit No. 69 for identification and ask you to state whether or not it is your own handwriting.

A Yes.

MR. MC KAY: The defense objects to the prosecution attempting to have any paper identified which may go into his relation with counsel upon request for a particular prisoner to testify on his behalf. The accused has the privilege of making any statement either in writing or orally with their counsel which is necessary to the conduct of their defense and such statements are confidential communications which cannot be revealed in court in any way, shape or form except under proper circumstances which are outlined in the manual for military government courts.

PROSECUTION: Do I understand, may it please the court, that this is counsel's writing, or was it written at counsel's request?

MR. MC KAY: If it please the court, I have never even seen the thing, at least at the time when the prosecution is seeking to go into matters which may go into privileged communication. I think out of courtesy, the prosecution should be required at least to submit it to the defense counsel to determine whether it is a privileged communication or not.

PROSECUTION: All right.

PRESIDENT: Mr. Prosecutor, the court at this time would like to know the particular communication, if it did pass through defense hands, or not.

PROSECUTION: I certainly hope that it did not, may it please the court. As a matter of fact, it is not incumbent on me to show that at all what he is talking about. A privileged communication is a communication between the attorney and client and hasn't got one thing in the world to do with the communication between the client and someone else, eventually or now, even though it be

written at his behest. I hope it's not.

PRESIDENT: What the court would like to know, Mr. Prosecutor, is whether or not this communication was directly turned over to one of the defense counsel in the first place, either Mr. Mc Kay or somebody else on the defense counsel.

PROSECUTION: I have absolutely no knowledge, may it please the court, of how this communication got into the hands of the person to whom it was sent. All I know is that it is a letter that has been signed by Matsui, which he stated was his own handwriting.

PRESIDENT: Mr. Mc Kay, anything further?

MR. MC KAY: Well, I'd like to at least see the paper to see if it did pass through my hands. I don't know what he has got from kingdom come.

PRESIDENT: Mr. Mc Kay, the court will give you an opportunity to check this during the noon recess, is that satisfactory to the prosecution?

PROSECUTION: I would love to have this completed right now before we have any further interruptions on it because it won't take but two seconds to ascertain whether or not he had it before, and I will have completed my entire examination.

MR. MC KAY: (Observing the paper) If it please the court, I have never seen this and it is not a privileged communication prior to this time.

PRESIDENT: The court understands, Mr. Mc Kay, that you have no objection.

MR. MC KAY: No.

QUESTIONS BY PROSECUTION (Continuing):

Q. Will you read, please, to the court the matter contained

in Prosecution Exhibit No. 69 for identification?

A Yes. (Reading) "Reading all material and testimony here which is said in favor of prisoners here in the dock, isn't in favor of all prisoners in the dock because there will be a second Flossenburg case. Personal feelings must be forgotten. All charges which are leveled against us here in the dock, they can read any way they want but 80 percent of it consists of lies and fabrication of the prosecution. We must fight together against the lies and the common design. It must be repeated constantly that it was not possible for a prisoner to beat another without a severe punishment. We will not spare the SS now--these people who kept us for years in a concentration camp, because if the Bavarians had won the war, none of us would ever have gotten back into the native land. When you draw into consideration all we have in back of us, all we have gone through, people have their nerve to bring us here before court at all. Who shall we look after? Not the SS and not the Americans--the product of the capitalist system. Let's make storm against everything which is oppressing us today. All the means are holy for us condemned."

PROSECUTION: No further questions.

MR. MC KAY: At this time, the defense moves to strike any reference which has been made to this particular document which has been identified as Prosecution Exhibit 69 for identification for the reason that it is not shown that this statement was ever directed to Paul Kramer, Palmer nor is it shown that it has ever been directed to any former prisoner, and for the reason that there is no showing of how this particular document has been obtained by the prosecution, and for the further reason that as it now stands, it is irrelevant and immaterial to any issues in this case.

(Mathol - Cross)

PROSECUTION: Now, may it please the court, I think it is highly material and going to the credibility of this witness when he makes a statement (quoting) "All means are smared for us condemned ones" and when he states "It is important to emphasise always again and again that an inmate could not beat to death another one without severest punishment." And further when he says only with the prisoners, never with the SS and Americans who are only representatives in the interests of their capitalist superiors," I think it would certainly go to the credibility of this witness as to what weight this court should give it and it is utterly material to whom it was directed so long as that man states that it is his own handwriting and his statement.

DEFENSE COUNSEL: I might say that my memory is of rather substantial difference with regard to the last sentence that was translated by the official translator here from the sentence read from the typewritten translation which the prosecution referred to and if it is, it might have some bearing on the materiality of the letter. Otherwise, I think the whole communication reflects nothing but the probably normal sentiments of a man on trial for a serious charge to the effect that he intends to defend himself and have witnesses defend him, more or less in the nature of an appeal to witnesses to come forward in his behalf, assuming it was directed to a witness, and as far as any reference to the Americans is concerned, this man's attitude--he is not on trial for his political beliefs which seem to be reflected in the last sentence.

PRESIDENT: Does the defense have any further remarks?

DEFENSE COUNSEL: Nothing further.

PROSECUTION: Nothing further.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Thereupon the court adjourned at 1210 hours.)

(Mathei - Cross)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1345 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused. All of the accused are present with the exception of Buddemsieg, Olschewski, Oswalt and Neye who are sick and whose interests are being taken care of by their counsel.

If there are any spectators in this courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The motion to strike on the part of defense counsel, Mr. Mac Kay, is sustained. The court does not feel, Mr. Prosecuter, that a proper foundation has been laid for this particular document.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINAT ON (CONTINUED)

QUESTIONS BY PROSECUTION:

Q When did you write this document marked Prosecution Exhibit No. 69 for identification, Mr. Mathoi?

A I don't know the exact day any more. I only knew that I wrote it in this waiting room where we were taken in the evening to confer with our defense counsels. One time Toerrner was sitting there and I gave it to Toerrner. I gave it to him.

Q Has Toerrner testified in this case?

A Yes.

(Mathoi - Cross)

2ap

PROSECUTION: No further questions. I at this time reoffer -- no, I don't offer, may it please the court. The court has granted a motion to strike the statement that has been made. Now I don't want to go through the same procedure again may it please the court. It's not my time to present it as an exhibit. In other words, at this time, it has merely been marked for identification and would be offered may it please the court, when the prosecution resumes its time to present evidence, namely, in the rebuttal, after the defense has closed its case, but on the basis of the additional information that has been presented to the court, I will ask the court at this time to reconsider its former ruling and thereby prevent any repetition of the reading of the document.

PRESIDENT: Well, the court would like to know, Mr. Prosecutor, just when you desire to offer this particular document in evidence before the court.

PROSECUTION: It will be offered, may it please the court, when we resume of course the introduction of evidence, namely, in rebuttal. In other words, there are also exhibits nos. I believe 66, 67 and 68 have all been marked for identification and will be introduced when we resume the right to present evidence before the court for the consideration of the court.

PRESIDENT: Mr. Prosecutor, the court would like to know whether or not those additional exhibits you mentioned had been read to the court.

PR SECUTION: Honestly I have forgotten may it please the court, whether some of them have or have not.

PRESIDENT: The court would like to call your

(Mathoi - Cross)

4sp

It seeks to be a document which is impeaching the testimony of this witness on the stand. However, it is not shown that this document was in fact received and held in the possession of the person to whom it was directed, and for the further reason that this statement is not shown to have been made voluntarily;for the further reason that a proper foundation has still not been laid.

PRESIDENT: Reporter, I wish you would repeat that objection please.

(Whereupon the objection was read by the reporter.)

PRESIDENT: The objection of the defense counsel Mr. Mac Kay is overruled. Mr. Prosecutor, is there a translation of this particular document?

PROSECUTION: Sir, we will get one and present it in proper form. As I stated to the court, I didn't intend to introduce that document in that form at this time, and at the time that I intended to introduce it, I also would have accompanied it with a sworn translation. I can have that made by one of the interpreters working here and bring him in to testify as to the authenticity of the translation and submit it to the court. I have a translation here may it please the court, but I think it would be better to have it done in the regular way by giving it to an interpreter who can testify to the correctness of the translation.

PRESIDENT: The court understands, Mr. Mac Kay when you originally had the opportunity to check this document over, you had the translation in hand. Was that not true?

MR. MAC KAY: May it please the court, I had

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attention that this particular exhibit has been read to the court.

PROSECUTION: I believe some of the others have been read too. Just a second. I will consult. May it please the court, to shorten the entire matter.

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION:

Q I hand you a document marked Prosecution Exhibit 69 for identification and ask you again to state whether or not that is a document made in your own handwriting.

MR. MAC KAY: The question is objected to. It's repetitious.

PRESIDENT: The court doesn't feel that that prosecure is necessary, Mr. Prosecutor. It isn't necessary, Mr. Prosecutor, to have this witness go through that whole procedure again. The objection of the defense counsel is sustained.

QUESTIONS BY PROSECUTION (CONTD)

Q Will you read it please, Mr. Mathoi.

MR. MAC KAY: That is objected to because it violates the best evide ce rule. The document itself is the best evidence.

PRESIDENT: Mr. Prosecutor, if you desire to put that exhibit up for evidence to come before the court at the present time, the court will give it consideration.

PROSECUTION: All right, Sir, I will offer it at this time may it please the court, as Prosecution Exhibit No. 69 in evidence.

MR. MAC KAY: The defense resists the offer of prosecution of its exhibit 69 for the following reason.

4sp

It seeks to be a document which is impeaching the testimony of this witness on the stand. However, it is not shown that this document was in fact received and held in the possession of the person to whom it was directed, and for the further reason that this statement is not shown to have been made voluntarily;for the further reason that a proper foundation has still not been laid.

PRESIDENT: Reporter, I wish you would repeat that objection please.

(Whereupon the objection was read by the reporter.)

PRESIDENT: The objection of the defense counsel Mr. Mac Kay is overruled. Mr. Prosecutor, is there a translation of this particular document?

PROSECUTION: Sir, we will get one and present it in proper form. As I stated to the court, I didn't intend to introduce that document in that form at this time, and at the time that I intended to introduce it, I also would have accompanied it with a sworn translation. I can have that made by one of the interpreters working here and bring him in to testify as to the authenticity of the translation and submit it to the court. I have a translation here may it please the court, but I think it would be better to have it done in the regular way by giving it to an interpreter who can testify to the correctness of the translation.

PRESIDENT: The court understands, Mr. Mac Kay when you originally had the opportunity to check this document over, you had the translation in hand. Was that not true?

MR. MAC KAY: May it please the court, I had

Sap

this typewritten sheet which the Colonel has in his hand.

PROSECUTION: I will offer that may it please the court. I have no objection to offering that at all.

PRESIDENT: The reason that the court is going into this matter is due to the fact that when this matter of the document first came up for identification, there was no objection on the part of the defense and that action was taken by the defense after you had had a chance to observe the document in question.

MR. MAC KAY: That is right.

PRESIDENT: And you at that particular time were able to check over a translated copy as the court understands.

MR. MAC KAY: May it please the court, I checked this to familiarize myself with the terms of that because I do not understand Germa n so that I could determine whether any such statement had ever been made to me.

PRESIDENT: The court will receive Prosecution Exhibit No. 69 in evidence and give it such weight as the court sees fit, with the understanding that a proper translation will be made of this particular exhibit no. 69 and placed in the record.

PROSECUTION: Yes, Sir, as Prosecution Exhibit No. 69-A.

(The document heretofore marked Prosecution Exhibit No. 69 for identification was received in evidence as Prosecution Exhibit No. 69, is attached hereto, and made a part of the record.)

PROSECUTION: May it please the court, if we may have the original copy, we will have a translation made immediately.

No further questions.

6sp

PRESIDENT: Redirect, Mr. Mac Kay.

REDIRECT EXAMINATION

QUESTIONS BY MR. MAC KAY:

Q Mr. Mathoi, when you spoke of the deaths in camp Flossenburg, were you referring only to the main camp or did you have in mind the outcamps as well?

A Everything that was in the outcamps and in the main camp itself.

Q Will you explain to the court if you know just what procedure was followed to report deaths from outcamps to Flossenburg?

A They were brought into the main camp with the ambulance.

Q Did you as hospital capo have access to those reports?

A Of course. I would like to emphasize that no dead came from Leitmeritz to Flossenburg, only the death reports.

Q You stated that the prisoners who lived in block 21, 22, 23 and 24 didn't get any breakfast. What did you mean when you say they didn't get any breakfast, but you said that they did get coffee?

A Everybody who was in the camp, no matter who, got coffee in the morning, and at noon everybody got a liter of food, one liter of food.

Q Well now, what did you mean when you said that these prisoners who lived in these blocks 21, 22, 23 and 24 didn't get breakfast?

A All those prisoners who worked got a breakfast in the morning except for those people whom I mentioned in the direct examination, block clerks, block eldest,

7sp

camp eldest and capos in the hospital and clerks in the hospital. They didn't get any breakfast. Captain Kirsammer, the chief of the administration arranged that order.

Q At what hour was that breakfast to which you refer usually served to the prisoners?

A The breakfast for the people inside the camp was given out towards 8:30 or toward 9 o'clock, and for the people who worked in the quarry and department 2004, they got their breakfast by means of a truck. It was carried out to them.

Q Now in the process of your examination you spoke of so-called stool pidgeons who were planted in the camp to make reports on you. Did the reports that those particular individuals make pass through your hands as camp eldest?

A No, of course not because if they had, I would have torn them up. As soon as I became camp eldest, I said to all the block eldests, "We will have no reports made", and in the evening I had the capos fall in behind the kitchen and I said the same thing to them. If reports were made on the details outside the camp, I couldn't do anything about them, and if reports were made inside the camp without my knowing about it, naturally I couldn't do anything about them either, but it was a principle of mine not to pass any reports on. But the people in the camp who made reports gave them immediately to the rollcall leader and I couldn't say to the man -- please give me the reports back.

Q You stated that there were post mortems performed in cases of accident. Do you recall whether any

sp of those post mortems involved prisoners coming from the stone quarry?

A Yes. For instance, I remember one case two or three men were injured by the chain on a crane. The crane was lifting stones and the individual parts of the chain - each one was as long as a man's arm and these fragments of the chain flew off and crushed the men.

Q Do you know what particular quarry these men were working in at the time of this accident?

A I believe it was block one.

Q In what year were those?

A '44.

Q You stated on cross examination that you beat Russian prisoners who had stolen packages with a rubber hose. Will you tell ~~that~~ the court when that particular incident occurred?

A That wasn't a particular incident. That consisted of a number of incidents. That often happened. I know of some people and they were Germans not foreigners who were hanged because they merely stole a pair of trousers. If I had reported one of these people and told the facts that in a black-out he had attacked one of his comrades and stolen his package away from him, he certainly would have come to the gallows. If I hadn't made any report and hadn't beaten a prisoner either, they would have come and said, "The camp eldest saw this incident and why didn't he make any report?" The man gets away with impunity.

Q Now, Mr. Mathoi, you stated that this occurred during black-out. Did you ever use a rubber hose for administering beatings at any other time other than during black-out?

Sep

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. MAC KAY:

Q Well, Mr. Mathoi, will you explain to the court when you followed the practice of carrying a rubber hose with you.

A Only when there were mass gatherings and words didn't have any effect any more.

Q Can you explain to the court what particular time of the day this would be.

A That was in the evening.

Q Will you explain to the court what the condition of the camp was after curfew in the evening with regard to darkness.

A In the wintertime it was already dark at 6:30 or 7 o'clock in the evening and then if an air raid occurred, all lights had to be put out. These people were attacked at the corner of block one. Everybody had to pass this corner in block one to get his packages except those people who lived in block 20 and they immediately shouted, "Camp eldest, camp eldest, come and help me. I am being attacked". I had to go over there because I was over in the post office and I helped distribute the packages myself.

Q Mr. Mathoi, you said that officially you were supposed to be superior to Goltz. What did you mean when you made that statement?

A I merely wanted to say that it was useless for me to talk to Goltz. I didn't have anything to say that he had such a power there that it would have been

10sp

ridiculous for me to tell him not to do something or to do something, and when Goltz said, "We are just going to take Frenchmen in the hospital", I said, "You can't do that, there are a lot of other people who want to get into the hospital and you can't merely look after the Frenchmen". But the result of my talk was that the people still were taken in as he wished and when I told him how these French doctors behaved, then he laughed. at me. I often said to these French doctors, "You have got to take into consideration that there are other people here beside Frenchmen and you have to treat them all the same", and they laughed at me. It was in vain.

I already mentioned when I got to the hospital whenever I wanted to make a disinfection bandage for blood poisoning, I couldn't find one drop of alcohol and shortly after I flew out of the hospital, the Frenchmen celebrated their national holiday -- I believe it's the 14th of July -- and on this occasion they drank alcohol.

Mr. Mathoi, why did you never communicate to me the fact that you had written this letter Prosecution Exhibit No. 697

PROSECUTION: I object to that may it please the court on the ground it's immaterial, irrelevant to the issues in this case and actually goes into the question of communication between attorney and client. Whether or not he informed his counsel that he had written that letter is immaterial to the issues in this case and immaterial to the weight that this court can give this witness' testimony based upon the letter that he has written and why he didn't inform Mr. Mac Kay of that fact is utterly immaterial and irrelevant.

llsp

MR. MAC KAY: I will withdraw the question.

PRESIDENT: Proceed.

MR. MAC KAY: No further redirect examination.

THE ACCUSED: I beg the court to be allowed to make an explanation with regard to this letter.

PRESIDENT: The court will give you an opportunity in full due course of time to make that explanation, Mathoi. Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Mathoi, you testified as to certain post mortem examinations that you had made -- 30 in number approximately.

A Yes.

Q Did you have a specific order to perform those post mortem operations?

A Yes.

Q Who gave you that order?

A Part of the time Dr. Schmitz and sometimes Dr. Schnabel.

Q And the court understands that both Dr. Schnabel and Dr. Schmitz at two different times gave you orders to perform those post mortem operations, is that correct?

A Yes.

Q Had you ever had a course in anatonomy, Mathoi?

A I learned that in Dachau with the Polish physician Dr. Garska.

Q How long a course did you have with this

12sp

particular Polish doctor you are talking about.

A He was also a prisoner, this doctor, but we were both instructed by the SS Dr. at the same time.

Q You mean you were instructed in performing autopsies through the medium of post mortem examination, is that correct?

A Yes.

Q Well, how much experience did you have during the course of that study of that experience?

A I learned enough so that in 25 minutes I could open up the thorax, the chest of any corpse and close it up again and included in that is taking out lungs and the liver, kidneys, spleen, take out the gall bladder, the liver, and each branch of the lung had to be dissected into three sections in order to see whether there were any traces of tuberculosis. The right and left chambers of the heart had to be cut open and the liver was also dissected into three parts. The kidneys were taken out of their net and all these organs had to be laid out on the dissection table in order to be inspected, and a qualified doctor made the medical diagnosis of these organs.

Q But had you ever had a course in medical school, Mathoi?

A No. I did voluntary service in the medic column of the Red Cross which was set up in all the cities. I was a member of the old union medical union and therefore I became immediately a member of the first aid station. Beside that I had an old school comrade whose name was Wertmann who placed many medical books at my disposal and taught me a great deal.

(Mathoi - Court)

13sp

Q Well, how many cases of dissecting did you observe or participate in before you started doing anything like that on your own?

A At least 20 for sure.

Q Well now, these 30 post mortem cases that you testified you handled, was that done under the supervision of any medical officer?

A Of course SS officer doctors.

Q You mean that that SS doctor was right there during all this dissecting?

A Yes, when I was learning, yes, and also prisoner physicians.

Q Well then, later on the court understands you did this on your own by yourself not under supervision, is that correct?

A Yes, in Flossenburg, but once I had taken out all these organs in the post mortem and put them out on the table, a doctor would investigate them and make a diagnosis.

Q And you contend, Mathoi, that the matter of these post mortems was performed by you upon orders of certain specified doctors, is that correct?

A Yes.

Q Now, you further testified, Mathoi, that a certain Russian who had stolen some bread was hit by you and in turn this Russian fell and struck his head.

A Yes.

Q That he was take n to the hospital and that he was released from the hospital by noon of that day or the next day?

A He was brought into the dispensary. The hair

14p

in back of the head around the wound was cut off. The wound was rinsed off and bandaged and then he was released.

Q How did you hit him on that particular occasion, this particular Russian?

A With the back of the hand.

Q With the back of the hand?

A Yes.

Q Where did you hit him?

A Here on his cheek. The bucket was standing behind him. He was standing with a poor posture. I came around the corner very quickly. I saw that he had the bread in his hand. I hit him on the cheek and he fell down over the bucket.

Q Did anybody else see that particular Russian after he left the hospital?

A Yes, every prisoner saw him -- at least those who were standing around down there.

Q Well, can you give the court the names of any particular people that actually saw that Russian after he left the hospital?

A I can't do that. I can't even give you the name of the Russian and if I had beaten him to death, I wouldn't be here any more today.

Q Well, did you actually see that Russian leave the hospital, Mathoi?

A Of course. I was very interested personally in what happened to him.

Q What particular doctor handled that case in the hospital?

A I believe it was this Janus Janicki.

(Mathoi - Court)

15sp

Q Was he a Polish doctor?

A That wasn't a doctor. That was a male nurse.

Q When was the last time you saw that particular individual that you referred to?

A At any rate, I saw him then when he was released with plaster on the back of his head.

What the court is referring to is this male nurse that you said handled this particular case. When is the last time you saw this particular male nurse?

A In February of last year.

Q Where was he at that time?

A He was still in the dispensary.

Q You are referring to the dispensary at Flossenburg?

A Yes.

Q Now you further testified that Kamenek stole bread and you slapped him as a result of that.

A Yes. He didn't steal people's bread. Only once. He did it twice.

Q Do you want to tell the court anything more about that particular incident?

A Yes. The people in the woodyard came to me and said, "Why aren't we getting any breakfast today", and I said to them, "You are getting breakfast just like anyone else" because I knew that the woodyard always got their breakfast. That was the way it was done and I asked Kamenek in the presence of his prisoners, "Why didn't you give your prisoners any breakfast?" and Kamenek told me that he hadn't received any. I went to the kitchen with Kamenek and determined that Kamenek had got his food for his prisoners. Then there were two

(Bethel - Court)

16sp

possibilities. Either I would report him or else I would give him a few slaps in the ear. If I hadn't given him any slaps on the ear and not reported him either, then the prisoners would have reported me and said that I was supporting Kamanek. One week later the people came back to me again and said that Kamonek was taking their bread away for the second time. Of course I was enraged. If I would see to it that you were reported, then you would be relieved of your duties immediately. I gave him a few slaps on the ear and then the case was closed because I saw to it that the prisoners got their bread. It didn't always occur and only three or four positions were involved. It wasn't done on a wholesale scale, but I couldn't always look after it because they would have thrown me out of the kitchen.

Q Did you have any further trouble from Kamenek?

A No.

Q Was that the same man Kamenek who appeared as a prosecution witness in this court?

A Yes. When I was in the kitchen I had to lie and say that other prisoners had stolen Kamenek's bread from his cardboard boxes.

Q Now, you have testified that during the time you were camp eldest you beat prisoners five or six times.

A Yes.

Q What did you mean by that term, "beat"?

A If it was a big incident, for instance, where there was wholesale black marketing going on, where people were cheating each other or where the welfare of the whole personnel was damaged or when a package was stolen, then I would give five or six blows with a rubber hose across the back. Because the prisoner didn't

(Mathoi - Court)

17sp

stand there and take these blows, he took off.

Q You say that only occurred five or six times, Mathoi?

A No, it took place more often than that for sure

Q You are referring to occasions when you used a rubber hose, is that right, now?

A Yes.

Q In other words, it took place more than five or six times, is that correct?

A No, the incidents with the rubber hose -- what I meant to say was I gave him five or six blows with the rubber hose, but such an incident didn't take place very often.

Q What the court wants to find out further as to whether or not those beatings took place in the clerk's office or just where did they take place?

A Earlier in the arrest building I refused to take part and I got blows myself and then later on in the clerk's office. I never knew that the Prince of Hesse had made a complaint about that and that was the reason it was changed over to the clerk's office. I didn't know that until I found out about it here.

Q Well, how many times did you use that rubber hose on any particular individuals in the clerk's office? In other words, how many individuals did you beat up in the clerk's office with that rubber hose?

A Without an order nobody.

Q Well, with an order then.

A Five or six times also.

Q And who gave you those particular orders that

18sp you are referring to?

A Baumgartner, Fritsch and the rollcall leader. I only did that when these people came into the clerk's office but I saw them and I couldn't get out of the clerk's office again because when I saw them, I would run over to block one into the prisoner's office.

Q Then the court understands that these beatings you performed in the clerk's office were done by orders from somebody higher up than you. Is that what you mean?

A Yes, of course. If I didn't do it, then I would get blows and someone else would still have to do it.

Q Now, referring to these times when you used that rubber hose outside of the clerk's office, you didn't have any orders at that time, did you?

A No.

Q Now, you have testified about turning this pencil communication over to Toermer. The court is referring to Prosecution Exhibit No. 69. When did that take place, Mathoi?

A I can't remember exactly. I can't tell you exactly. It was shortly before he appeared here in the courtroom.

Q You turned that communication over directly to Toermer, did you?

A Yes.

Q Did he receive it?

A Yes, of course he took it.

Q Did he read it in your presence?

A I don't believe so. I didn't see him reading it.

(Mathoi - Court)

19sp

Q Did that take place before the trial ever started or not?

A No, during the trial.

Q Well, where was Toerrner when you turned that over to him?

A In the waiting room where we were always led to whenever we were waiting for our defense counsels. It's impossible to speak.

Did you have an opportunity to converse with Toerrner at that time?

A No, I already said it was impossible to speak to anyone.

Q What were your previous relations with Toerrner?

A I never had any contacts with Toerrner. I always had to step in against Toerrner.

Q Well, just what was Toerrner's status in Flossenburg?

A He was first of all a male nurse in the hospital and then later on a capo in the quarry in division 2004. He also had block 13.

Q Was Toerrner under your supervision during the time that you were a capo in the hospital?

A Toerrner was relieved of his duties beginning of March '44 and at that time I was not yet capo of the hospital.

Q Did you have any previous difficulties with Toerrner outside of what you may have mentioned previously?

A Yes.

Q Do you desire to tell the court?

A Yes.

Q Go ahead.

(Mathoi - Court)

ZOsp

A Two young Polish prisoners came to me and asked me to protect them against Toermer. Toermer had already been relieved of his duties in the hospital and was out in the quarry as capo and they said that Toermer wanted to blackmail them. I asked them what they meant by this blackmail and they told me whenever they got packages from home Toermer would approach them and said, "If you don't sleep with me and give me some of your packages, I will give you the worst work I can in the detail in the quarry". I naturally threw that in Toermer's face and called him names, but I never beat Toermer and he never beat me back and what he said here is false in that regard.

Q Well, who are these two individuals you are referring to?

A They were two young Poles, and they caused my attention because they were so young.

Q Do you know their names?

A No, unfortunately I don't know their names any more.

Q When was that;when did that take place?

A That was during the time when I was still camp eldest and to be specific in March 1944 just before I was relieved of my duties. I can give the name of a witness to whom these two young people told their story and he told that back to me again in the presence of the two young people.

Q Who was that?

A Hans Neisenwentd.

Q Where is he at the present time?

A I don't know. Up until the end at least until

(Mathoi - Court)

21sp I left the camp he was in the camp.

Q Now, you mentioned also, Mathoi, about not having any alcohol available during the time that you were preparing bandages and things of that nature.

A No, there wasn't any alcohol there. Every week a half bottle of an empty ether bottle in which ether had been formerly kept would come into the hospital and be used for the prisoners there.

Q You are referring then to ether then and not alcohol at that particular time.

A This alcohol was poured into empty ether bottles.

Q Did you ever make a report to anybody about the fact that you didn't have alcohol available when necessary?

A Of course. I told Dr. Schmitz about it, but Dr. Schmitz couldn't get ahold of any either. I don't know why.

PRESIDENT: Any further questions by members of the court?

A I would like to explain one more question to the court.

PRESIDENT: Just a minute. Go ahead but make it brief.

A In February '44, someone reported to the SS that under the fastenings in the ceiling alcohol and food was hidden. The SS went over to investigate. I believe that Reupsch who sits here in the dock was also there and they found there five to six liters of pure alcohol, 16 or 18 cubes of margarine, half a Zentner center of sugar and flour. After this story broke, the people still

22sp

weren't thrown out of the hospital, but I immediately was suspicioned of having tipped off the SS to it, and for that reason my predecessor in the the hospital through Reupsch and Goltz and ~~[illegible]~~ Isermeyer hated me for that reason. I never did anything. They even laughed at me in the camp because I couldn't even play cards. I never had any gold. I have two fillings in my teeth which I have had since 1944 in February.

PRESIDENT: Any further questions members of the court?

QUESTIONS BY COL. JACKSON:

Q Now, referring back to these post mortems that you performed, did you just open up the bodies, get them ready and after that an SS doctor or some trained doctor come along and make the diagnosis?

A He made a medical report by looking at the specimans and he turned in a report on the status of the organs and the body.

Q Who did that?

A The doctor.

Q Now, we have heard a lot of references to this order prohibiting beating by one prisoner to another.

A Yes.

Now, was that a paper order, written order that was supposed to be ignored or what? Was that actually an order?

A That wasn't any written order. That merely came from headquarters, notified the rollcall leader that he should tell the prisoners that it was forbidden for one prisoner to hit another, but according to this order, it wasn't meant that it was forbidden to give slaps on the ear, because the SS knew as well as every other

23sp

prisoner that without slaps on the ear, it was impossible to proceed. If that were so, then it would have been a survival of the fittest. The strongest would have remained and the weakest would have died.

Q Was that order actually enforced or was it winked at?

A I must mention that when I was in the other camps in Auschwitz, for example, the capos had more rights than they did in Flossenburg. That was forbidden from the summer of '43. That order was in effect.

Q I am asking about Flossenburg. Was that order forbidding one capo or prisoner to beat another -- was that actually enforced or did the authorities overlook it?

A It had to be enforced because the SS were of the opinion that when two people do the same thing, it isn't the same thing. It was forbidden to beat a prisoner and if someone was caught doing that and reported, then the prisoner would be punished for it some way or other, and by that is meant when someone mistreats a prisoner. That is the way I understood it at least. I can't see it any other way.

Q Well, was boxing a prisoner's ears considered mistreatment?

A No.

Q Was giving him a kick considered mistreatment.

A No, but if you kicked him from the front, yes.

Q Now, was it considered mistreatment for a capo to beat a prisoner for stealin ?

A He had to be under guard when he did that that he didn't wound the prisoner. He would be

24sp

immediately reported if he beat a hole in a prisoner's head.

Well, if he beat him with a gummi for stealing would that be considered mistreatment?

A Of course, if the prisoner would be incapacitated for work because of that, that would be called sabotage.

Otherwise, it was considered proper. Is that correct?

A You can't say it was really proper. That isn't true. But that is the way it was. I can't describe it any other way.

Q But as long as the prisoner was able to be at work, the next day, it was overlooked by the SS, is that correct?

A Yes, when they didn't see it then they just didn't see it, but if it were reported, then the prisoner would be punished. On the other hand, if the SS gave an order for someone to beat a prisoner and the prisoner refused to beat him, then the prisoner who refused to beat would be beaten as well as the prisoner who was supposed to be beaten.

QUESTIONS BY MAJOR [illegible]:

Q Was it Karsenek or Zo[illegible] that you said was trying to blackmail the two young Poles?

A Zaermer.

Q Did I also understand you to say in the same sentence that he wanted them to sleep with him?

A Yes, he was also tinted with homosexuality.

Q Now, it's been testified here too I believe by a Bomelaer that you beat a man who refused to take a pill of Dr. Schmitz and that he died the next day

(Hatmel - Court)

25sp

What do you know about that?

A I don't know. I should know about it, but I know of no such case where a patient refused to take medicine.

Q Did you beat a man for refusing to take a pill prescribed by Dr. Schmitz?

A No, nobody refused and for that reason I didn't beat anyone.

Q Now, Dr. Legais testified that you struck a Russian with a sick stomach and that the Russian died a few hours later. What have you got to say about that?

A That isn't true. Dr. Schmitz or at least Dr. Schnabel would have found out about it immediately. I would have been reported and got into trouble.

Q Now then, a man named Dufour said you beat a man with a pick handle. The man died.

A First of all, as a camp eldest I never had anything to do with a pick, and that was none of my business and I never beat any prisoner like that because as camp eldest, it would have been known immediately. Half an hour later I certainly would have been in the arrest building.

Q Now, another witness testified that you beat a man with a stool of a chair who fell down and later died. Do you know anything about that?

A No.

Now, somebody else testified that you beat a Frenchman who was ill and that the man was knocked down and died in the morning. Do you know anything about that?

A No.

(Mathoi - Court)

26sp

Q Now, somebody else has testified that you made ~~intravenous~~ intravenous injections into Russians of lighter fluid and that they died while sitting on the stool. Do you know anything about that?

A That isn't true because it's impossible. Half an hour later that would have been known everywhere, and I would have been in the arrest building. That is a monstrocity. That is impossible in regard to this prisoner who was supposed to be in the front of the door. That is impossible.

Q Somebody else has testified that you had broken out a man's gold plate and had asked the dentist to make you a gold cap for your teeth from this man's teeth who had just been killed. Do you know anything about that.

A No, it would be impossible to take gold out of any prisoner's teeth. Dr. Schmitz knows about it and also Reupsch who sits here in the dock. As soon as I got in the hospital it was a definite order given out that whenever prisoners arrived in the hospital they would have to open their mouths. Their teeth would be checked and any gold in their teeth would be noted down on paper and that is the reason I put this into effect because earlier gold had been stolen.

PRESIDENT: Court will recess for one half hour.

(Whereupon at 1500 hours the court recessed.)

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(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Baldauf, Oischowski, Oswald and Kaye who are sick in the hospital. The interests of these accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Any further questions members of the court?

KARL HATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT (Continued)

QUESTIONS BY LAW MEMBER:

Q Now I understand that you have no dentifrices in your mouth, is that right?

A No.

Q The only thing I believe you said you had was two fillings which were placed there prior to entrance to the camp, is that right?

A No, I said they were put in in February, 1944.

Q These were two fillings, is that right?

A No, these are no fillings. The tooth is still in there. It is a steel crown.

Q Steel crown? 1 or 2?

(Hathoi - Court)

A 2.

Q Now I want to ask you a question about the triangles. What kind of triangles did the homosexuals wear?

A A red triangle with a black stripe.

Q Well now, did the criminal prisoners who were homosexuals wear the red triangle with the black stripe, or did they wear a green triangle with a black stripe?

A I do not quite understand the question.

Q Suppose they were habitual criminals, would they still wear a red triangle with a black stripe?

A No, habitual criminals had a green triangle with the point up.

Q And suppose they were also homosexual inmates.

A The triangle was the same.

Q What was the indication of a red triangle with a purple stripe over it—what did that mean?

A That didn't exist. I only knew that they had pink triangles, but I didn't see that in Flossenburg. I saw that they had that in other camps. That also meant paragraph 175—

Q —Was there a yellow stripe with a triangle?

A That I can't say exactly, but I don't believe so.

Q Was the black stripe the only stripe worn in conjunction with the triangle that you knew of?

A Yes, but there were prisoners in the camp who had not been admitted to the camp because of being homosexuals. They had red triangles or other triangles, and only became homosexuals in the camp.

Q Were they then given black stripes?

A No, not as long as it couldn't be proven.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL MIELVIG:

Q This man Croize who you were supposed to have been accused of having killed, how do you know he is still alive?

A From the books--Sch.F. 9489, Croize, Andrew, Paris, born the 30th of April, 1920.

Q Is that from the rolls of Flossenburg camp, is that correct?

A Yes.

Q What happened to that man, Hans Bruder, I believe you said his name was, who fitted the noose over the prisoner's neck who were to be hung?

A As far as I know and can remember, he was still in the camp as long as I was there, until March of last year.

QUESTIONS BY LAW MEMBER:

Q You say that number is 9489?

A I do not need that and if required I should like to hand it in as I have a duplicate copy of this. This contains also the names of all Martinsks taken out of the books. No other names were given so that I couldn't look it up.

Q Will you read off the list of names and numbers that you have there?

A Yes.

Q Is that all the people whose names appear in that record by that number?

A Yes, all Martinsks who were there, namely: (reading from the list) protective custody check No. 10607, Martinek, Josef, born in Tillowitz on the 11th of October, 1925; protective custody check No. 2800, Martinek, Gustav, born in Rulowky on the 3rd of May, 1915;

protective custody check No. 3060, Martinek, Jan, born in Karolin on the 19th of March, 1899; protective custody check No. 2343, Martinez, Johann, born on the 20th of January, 1907; protective custody check (Jugoslav) No. 13747, Martinek, Franz, born on the 30th of June, 1912.

Q I understand your examination of the record indicates all these people are still living?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. MACKEN:

Q Mr. Mathoi, I show you two pictures, prosecution exhibit Nos. 41 and 47. Can you tell me who the person in picture 41 is?

A That is Celts.

Q Is that the same Celts who was a witness here in the courtroom?

A Yes.

Q Is the man on the picture, prosecution exhibit No. 47, a prisoner from Flossenburg?

A I can't say that.

Q But it is known to you that this picture was introduced into evidence to show that this man was a prisoner in Flossenburg.

A That I don't know. I can't say on this picture whether they should have been photographed.

Q Please give an explanation to the court how on the one side a man like Celts can be as well fed, and on the other side an alledged prisoner can be practically starved to death.

A This prisoner is definitely sick, and I have seen more than one of these people. I myself looked liked that as a prisoner in Auschwitz, and Gelts never ate bad.

Q I don't believe you just have to be a man who disregards food to look well in Flossenburg. Give an explanation as to the situation how one man can be well fed and another man can be starved.

A I'd like to clarify one case when Lt. Bowman of the Luxembourg police was here, he asked me at one time, couldn't you please help me because in the hospital they steal from my packages cigarettes and food. I went to the hospital to Rickert and Gelts and told them to cease the theft of packages or things from packages. From then on, the prisoner again received all the things that were in the packages, food and smoking tobaccos.

Q How did the prisoners in general look in Flossenburg, like Gelts or the other prisoners?

A They did not look like Gelts nor did they look like the other man. It's just the middle.

Q How come Gelts looks so good?

A Gelts didn't have anymore food rations than I did. However, he begged from other prisoners and how he did that I don't know, but he was living well. As a matter of fact, I know he was living well. There were times when I couldn't buy any beers because I didn't have any coupons anymore.

MR. MACKEY: Thank you.

QUESTIONS BY MR. MC KAY:

Q Mr. Mathei, from that paper you just read, from the names of the people you were supposed to have killed, did you make any

Ta Hse 9/30-1of-6

notation showing what disposition was made of that prisoner as shown by the camp rolls?

A According to the rolls these people must have been in outside camps and then in March or April returned to the main camp of Flossenburg.

MR. MU KAI: That is all.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q March or April of what year?

A I should like to give an explanation.

PRESIDENT: The court will give you an opportunity to make that later on.

Q That was March or April of what year?

A Last year.

Q 1945?

A 1945, yes.

Q Now you checked all of the Martineks that were listed in the books that have been introduced by the prosecution, is that correct?

A Yes, I was only accused about this one Martinek, but I picked out all the Martineks I could find.

Q And your search included all the Martineks listed in that book, is that correct?

A I believe so, yes.

Q Were the prisoners all the prisoners that were in there from October, 1942 on until the end?

A According to the numbers, there are also some who arrived in camp later.

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Q Well, did you check those that were in there from October, 1943 on up until the end of the camp?

A I started with book No. 1 and checked all the Martinsks contained in there. When they arrived in camp, it didn't make any difference, I wrote them down, all of them.

Q Now how much medical training did you say you had in Dachau?

A 8 weeks.

Q And during what period of time was that?

A From January '41 until March '41.

Q And you received additional training in Auschwitz, is that correct?

A Yes.

Q And over what period of time was that?

A That was in 1942, from August until September.

Q And that was approximately how many weeks?

A August 19th I arrived in Auschwitz and worked with these people, the three Polish professors, until the middle of October.

Q So the total medical training that you had received was approximately 16 weeks, is that correct?

A Yes.

Q During that period of time, did you have a place to give injections?

A Yes.

Q And as hospital corps did you give injections to the prisoners?

A Yes.

Q How frequently.

A 80 to 100 times, I can say. I worked, as a matter of fact,

as a male nurse in Dachau from January, 1941 until August, 1942.

Q Well now getting back to Flossenburg, how many of those prisoners that you gave injections to died?

A None of them died.

Q All of them got well, is that correct?

A I assumed that because if one of them would have died, I would have known about it.

Q And none of your patients died, is that correct?

A Of course patients died in Flossenburg, but not because of me.

Q What was the nature of these injections that you gave the prisoners?

A Novocain, omnadin, prontosil, ilesdren, evipan, but evipan only in preparation of operations and then only in the presence of Dr. Schmitz and some other doctors.

Q Were all of these injections that were administered by you, administered in the presence of Dr. Schmitz?

A No, the evipan injections, yes; not the others.

Q What quantity of novocain would you administer to the patients?

A You can't give any more novocain to any one than 3 cubic centimeters. That is the normal dose.

Q How much did you give them, Mathei?

A Not more than that.

Q But you did give them 3 cubic centimeters, is that correct?

A Yes.

Q Now did you give any injections to persons who were suffering with tuberculosis?

A No.

Q Never at any time?

A No.

Q And what quantity of evipan would you give to the patients?

A 8 to 10 cubic centimeters, but there is a difference between evipan and other injections. You have to inject it very very slowly, the evipan. While the injection is given the patient has to count.

Q Over what period of time would you give these injections of 8 cubic centimeters of evipan?

A 3, 4 or 5 minutes.

Q Now, over what period of time would you give an injection of 3 cubic centimeters of novocain?

A You also inject that slowly, but you always ask the patient if he still has any feeling because it is the same thing as that used by the dentist before he pulls a tooth.

Q What is Cumadin?

A Cumadin is injected into the muscular tissue for infections and throat diseases.

Q And what quantity of that did you use in any one injection?

A 2 cubic centimeters of cumadin.

Q What is prontosil?

A Prontosil is a sulfa-oxyde clorido which is given if someone has a rash or an infection of a wound. Also inter-muscular.

Q What quantity of prontosil did yougive to a patient in any one injection?

A 5, and if the doctor gives orders, 10 cubic centimeters.

Q And what is the purpose of clesudron?

A It is also sulfa-oxyde.

(Mathei - Recross)

Q In other words, prontosil and eleudron are sulfa drugs, is that correct?

A Yes, there might be some more, but I don't know the rest of them.

Q And what quantities did you administer of eleudron?

A 5 cubic centimeters.

Q Now did you administer benzine in any of these injections?

A No.

Q What is the effect of administering benzine on a patient?

A He'd probably die.

Q What was it that you administered to yourself?

A Petrol, 1 cubic centimeter.

Q Now while you were working as some in the hospital--

A --this is the result of that.

Q While you were working there as some in the hospital, Mathei, did you undertake to treat the patients that came in there?

A Not internal diseases, I couldn't treat them because I don't know anything about it.

Q Surgical you did treat, is that correct?

A If he had ulcers of course, if others were busy, I did it.

Q How often did you use a scalpel?

A During all the time I was in the hospital at Flossenburg, 6 times perhaps.

PROSECUTION: No further questions.

MR. MAIER: If it please the court, we have been getting quite a bit of testimony matter which is of surprise to me, and I would like to have 5 minutes to talk to Dr. Schmitz.

PRESIDENT: The court will give you that opportunity.

(Mathei - Recross)

Sa 480 9/30-lef-11

Mr. Hall, in just a moment after the court has given Mathei an opportunity to make certain explanations.

Mathei, you have requested an opportunity to make certain explanations to the court on two different occasions. The court will give you that opportunity at the present time.

PROSECUTION: May it please the court, I have one other question I would like to ask him before he has that opportunity.

PRESIDENT: The court will grant that request.

QUESTIONS BY PROSECUTION (continuing):

Q Now Mathei, you stated time and again that it was impossible for a prisoner to beat another prisoner to death or kill him unless he would end up in the arrest building immediately, is that correct?

A Yes.

Q Well, is that your meaning, is that what you had reference to when you stated in your letter it is important to emphasize again and again that an inmate could not beat to death another one without having to face the severest punishment?

A No, that isn't what I meant. What I meant was that he could be honest about it—that it wasn't so easy to kill another prisoner.

Q Well is that what you wanted ~~former~~ Mathei to say?

A Of course, because that is the truth.

PROSECUTION: That is all.

PRESIDENT: Now, Mathei, the court will give you an opportunity to make any explanations that you previously requested of the court for the opportunity on two separate occasions. The court desires that you make these explanations at this time.

ACCUSED MATHEI: Yes.

(Mathei - Recross)

PRESIDENT: Just a minute. If there is any question about the subject of these explanations, the court will allow the defense counsel an opportunity to confer with Mathei before he makes that explanation.

MR. MC KAY: If it please the court, I think I can clear it up. There are two things I remember. One was the statement that he made in this letter. I think his attention should be called to that.

ACCUSED MATHEI: Yes, for one thing, I wrote this letter because I imagined that the court could feel how we as former prisoners feel about accusations that are far from being the truth. Of course, being under such moral pressure, one does not have the full command of one's nerves as one has as a normal person, and what I wrote in there about 90 percent of these things not being the truth is correct, for that I will give my hand. I never thought in all my life that I would have to account for things that I have never done and that are being made up. We prisoners in the camp were tremendously happy whenever we heard illegal news from civilians or otherwise that the Americans were moving nearer by nearer into Germany. And now we that have been subjected to all kinds of indignities in these camps and have been tortured there by the Nazis now we are being brought before the court and we are accused now.

The second one is the questions of triangles. All those in the concentration camp who wore the point of their green triangle up were habitual criminals. These were prisoners who were in protective custody after they had served their sentence, in whose case the court had prior to their set sentence announced their protective custody after the serving. I remember people who were sent to the camp and who arrived there and I know several cases who had red triangles, and after they had been investigated by

the political department of the camp, they received the green triangle. On several occasions I talked to an SS man who was working in the political department whose name was Kaufmann. Those who were in the camp with green triangles were called PSV (police security arrest) or else VH (protective custody prisoners). Some of these prisoners were men who had violated traffic regulations with bicycling, or had remained in a restaurant after the certain prescribed hours, or had been accused of brawling at night. Two or three of such violations and he would receive a green triangle from the political department without ever having been before a court. That was mostly an arbitrary measure on the part of the Gestapo of their home town. Nothing else I can say about the questions of triangles. People who had black triangles were also sent to concentration camps. There were other people who had illegitimate children and didn't pay for them, or a person when drinking was caught by the police when he was outside after having been drinking more than he could take. This man would be sent to the camp for an indefinite period of time and those in Germany who weren't in the protective custody of the police were in the penitentiary of Traubing or in the outside camp Gusen of Mauthausen. If those halls were overcrowded, they were sent to the various concentration camps and this was the way these people came to the camps.

PRESIDENT: Anything further at the present time, Mathoi?

ACCUSED MATHOI: No.

PRESIDENT: Mr. Hall, the court will give you an opportunity for a five-minute recess to confer with Dr. Schmitz. I think that is what you have in mind, and if you need more time, the court will grant it.

The court will take a short recess.

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(Whereupon the court recessed at 1625 hours.)

(Whereupon the court reconvened at 1635 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and prosecution are present, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswald and Weye who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court understands, Mr. Hall, that there will be a cross examination by you of the accused, Mathoi. Proceed.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY MR. HALL:

Q Who is Dr. Schnabel?

A SS garrison doctor, Major Schnabel.

Q During the time that you served in the hospital, did you have occasion to see Major Schnabel daily?

A No.

Q Was he employed at the hospital during the time that you were there?

A Dr. Schnabel? Of course.

Q In other words, he was on duty there throughout your tour of duty in the hospital.

A Of course.

Q Do you know how long prior to your arrival at the hospital that Dr. Schnabel was at the hospital?

A He was certainly there before I ever arrived in Camp Flossenburg.

Q What conversations did you have with Dr. Schnabel in connection with your duties?

A There was no conversation with Dr. Schnabel whatsoever. He gave me his orders and I had to carry them out.

Q Now I presume that you observed that a corpse emanates quite a few foul odors.

A Yes.

Q And I presume that your knowledge is sufficient to state that from a corpse there comes many poisons, is that correct?

A Yes.

Q Do you know as a matter of fact that a practicing physician and surgeon does not make the incisions in a post-mortem examination?

A I know that I forgot to tell the court in the first place that a doctor never carried out a post-mortem, neither Dr. Schmitz nor Dr. Schnabel.

Q And do you know that the reason for that is that a practicing physician and surgeon must not permit himself to be contaminated by the dangerous poisons that come from a corpse?

A Yes.

Q Do you know what a corpse servant is?

A Well I know that the corpse servant is the one who cleans the corpse before they are buried in civilian life.

Q Had you ever heard the term corpse servant in connection with one who performs these various incisions in connection with the

post-mortems?

A No, but I have heard the term post-mortem performer of corpses and those are employed by the hospitals. In my home town there is a man who only performs post-mortems.

MR. HALL: That is all.

PRESIDENT: Anything further, defense?

QUESTIONS BY MR. MC KAY:

Q Mr. Mathoi, the amounts of the various drugs which you have told the prosecutor that you gave, will you explain to the court just who determined the amounts that would be given to the various patients which you injected?

A The doctor only.

Q You had nothing to do with determining the amount of them yourself, is that what you intend to convey to the court?

A Absolutely not. There were ampoules of the various medicants of 1 cc, 2 cc, and 5 cc, and there were ampoules with 20 cc's. But the prontosil only in 5, the cardiazin only in 2 and eleudron only in 5 cc ampoules.

Q And each injection you made was in accordance with doctor's orders, is that what you mean?

A Yes, of course.

PRESIDENT: Defense, anything further? Recross.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q How long were these doctors in the hospital, during any one day?

A Lots more things were going on in the hospital when Dr. Schmitz arrived as when Dr. Schnabel had been there. Dr. Schmitz arrived at about 7 o'clock in the morning and never left until 11:30 or 12 noon, only in the morning at about 8 for half an hour to drink his coffee and then he returned. At 2 o'clock he was

there again and never left before 4:30 or 5 and if the ambulance hours were at night, he was there too. That was always after roll call, I can say from 7 to 8 o'clock.

Q How frequently was Dr. Schnabel there?

A When Dr. Schmitz was sent to the hospital in Flossenburg, Dr. Schnabel was there quite often of course, and for the simple reason that he didn't want anyone to meddle with his so-called privileges, but so far as I can determine and from what other prisoners told me, Dr. Schnabel knew very little about medicine. The main thing for him was the alcohol.

Q And you gave these injections at the direction of Dr. Schnabel, is that correct?

A Yes.

Q In the quantities that you have mentioned to the court, is that correct?

A Yes.

Q And they were not administered while Dr. Schnabel was there, were they?

A No.

Q And they were not administered when Dr. Schmitz was there either were they?

A Not always. Mainly when they were given to the patients at night in the wards or in the ambulance.

Q And this man whose name you looked up in the books, what nationality was he, the one you were looking for?

A Dommelier mentioned a Martinek and I was looking for a Martinek and he was talking about a Croise and I looked for Croise but the way I have to tell it to the court, there is a lot of swindle in those books because things have been erased and other remarks

(Kathol - Recross)

have been written down, remarks that I know to be very differently from the camp. For instance, one man I knew was marked as a protective custody prisoner. And to back that, he would have had a red triangle, but he had a green triangle. 2 pages further down, there is another one marked as protective custody prisoner in this book, whom I happened to know in camp as a man with a green triangle. Besides that I have found lines where the original names have been eradicated and a new name added.

Q Well, did you find any names that showed they had died and then they were not dead?

A As far as I know, behind the name of each man who had died a cross was stamped with a rubber stamp in the camp. I have seen crosses made with pencils by the names. Of course, I didn't see any such cases, but I should like to believe that those were added afterwards. And it is not clear to me why Goltz adopted the name, Pierre Bertram.

Q Will you tell the court whether or not you have found any entries in this book where a man is stated to have been dead when he is in fact still alive?

A For one thing, this Martinek or this Croize was said to be dead, and he is not dead.

Q Well, did the book show that he was dead?

A But there are other people here who found dead prisoners who are not dead.

Q Will you answer my question, please?

(Thereupon the reporter read the question.)

A I can't say whether they are still alive. I wasn't in camp until the last and of course it is impossible to know of every

Mm 450 9/30-1of-19

person in the camp.

Q So you don't know whether this Frenchman, Croise, is alive or dead?

A According to the entries he should still be alive. Of course, he could have died. I don't know that because I was not connected in any way with the entries in the books.

Q Well, did Bommelaer say you killed a Russian, a Pole or a Frenchman?

A I don't know that exactly anymore. All I know is that I remember the names Martinek and Croise mentioned by a prosecution witness.

Q You didn't look at the No. 7960, did you?

A I don't know who that is.

Q And you didn't look at No. 4582, did you?

A I don't know the numbers and I don't know the names.

Q Where did you get the spelling as M-a-r-t-i-n-e-k?

A Martinek--Bommelaer stated that.

Q Did Bommelaer state that or did he state that the name was Martinjek?

A He said Martinek.

Q I hand you a book marked prosecution exhibit No. 13, Mathoi, and call your attention to No. 7960 and ask you to state what that name is that appears under that entry, No. 7960.

A His name is Martenjek, his number is 7960 and he died on May 27, 1944. That would have been the time during which I was in the hospital.

PROSECUTION: No further questions.

(Mathoi - Recross)

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q For what purpose did you use the scalpel 6 different times?

A To open ulcers in the back of the neck or in the hand.

Q What was that you started to say and didn't finish about Colts changing his name.

A I can remember that the name Pierre Bertram was mentioned in the old clock room.

PRESIDENT: Any further questions by members of the court? Apparently not. Defense, any further questions? Prosecution? Apparently not.

Mr. Mc Kay, the court understands that you are finished with the present witness, Mathoi.

MR. MC KAY: I am finished with him.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and resumed his place in the dock.)

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon the court adjourned at 1700 hours until 0900 hours, 1 October 1946.)

I said, "Write down what you need. I'll get it for you." With this list I went to the hospital, to Doctor Schmitz, and I asked Doctor Schmitz to get me these medicaments. Doctor Schmitz signed these lists. I received the medicaments and took them to these people. It was forbidden by First Lieutenant Baumgartner to take anyone from these blocks to the hospital. It was none of my business and I wouldn't have had to do it but I did it anyway. For that, of course, I was scolded good and proper - I shouldn't meddle with things that were none of my concern. I told Doctor Goldfarb, "You can pick them up yourself", and Doctor Schmitz finally succeeded in getting these patients up to the hospital after introductions on my part of Doctor Goldfarb and Doctor Forster. I have to state that at that time the mortality rate was quite high. I went to these blocks daily and since our death buriers had too much to do and everything was overcrowded, the dead bodies were put down in latrines overnight - I mean, of course, the corpses. In the morning these dead bodies were picked up there, but I can't imagine how a man should fall down into the latrines. There was no water in them but I can't imagine that. It was a so-called mass latrine and there was a hose of 8 to 10 meters in length with which the latrine was cleaned daily. Water was spilled in it.

Doctor Goldfarb and Doctor Forster told me one day that they had to tell me something. I said, "Yes, tell me," and they told me that they had been called the previous day to the commandant, and they told me that the commandant had told them that they would receive orders to make certain injections on certain people, but it was forbidden to them to tell anyone about it. And I said, "Well, why do you tell me about it?" And then they said, "We trust you. We don't think you will betray us." I said, "Well,

what do you want to do now? Do you actually want to do that?" They said, "We are just poor Jews. We can't do anything else." That was all.

PRESIDENT: The court will take a half-hour recess.

(Whereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter and Mr. Berkowitz, who are absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Dr. Engelhorn, who are absent on business of the accused; all the accused are present, with the exception of Buddensieg, Oswalt, Olschewski, who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Mr. McKay, proceed with direct examination.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Mathoi, when did you leave the concentration camp of Flossenburg?

A The first time the first of December 1944.

Q Will you explain the occasion of your leaving at that time?

A Yes. On November 30th the commander called me and he told me that on December 12th, the next transport for the unit Dillewanger would leave Flossenburg. He told me that he would send me along with this transport. I didn't say "yes" and I didn't say "no". He said "you do not mean to say that you do not want to go." I said, "in 1937 when I was sentenced, I was excluded from the Army and I received the certificate of exemption from the Army." He said, "that don't make any difference in the Dillewanger unit." I said,

"Commander, I would like to ask you something. Isn't it possible that I can receive, after having been 8 years in a concentration camp, prior to going to this unit, a furlough?" He said, "Since Duessen is not so far away I will try by telephone to get a furlough for you, a so-called action furlough". I received this furlough, 9 days including travel time. December 1st I went to Duessen. When I was in Duessen I had to report to the police immediately. I immediately visited my comrade Soelmer, who was here on the witness stand. The family of Soelmer owned a d e factory. There was a man, a party member and a good friend of Koegel's, and Koegel told me to visit this Eglinger and greet him. I did that and this Eglinger told me "Within the near future I shall have my neighbor and his wife arrested and I shall bring them there where you are coming from. For one thing, he talks too much to the foreign prisoners of war and for another thing he is everything else but a Nazi. I immediately warned Soelmer about this. Then I asked Soelmer why it was not possible to get me across the border. Soelmer said, "I have a connection to the Swiss border with some people whom I know who are doing duty and I shall try to get you there". I was determined not ever to raise a weapon against any allied soldier for this government that had sentenced me and with which I could not agree. In December 1944 a decree was issued by the Reichfuehrer SS Himmler which had about the following wording: "Everyone who dodges front line service or anyone who deserts the front line, his whole family will be held responsible". In other words, the next of kin of this man would be arrested.

In Duessen where my wife, my mother, and my sister lived, I had no other way out but to stretch this furlough as long as possible and for that reason I injected one cubic centimeter of petrol into my foot. The next day I was taken to the hospital in

in Fuessen because I had 40 degrees of fever and I was in great pain. But the 12th of December arrived in the meantime. The doctor in the hospital told me that several phone calls had been made about me; that the police had been there and that Koegel had sent a telegram to put me on a transport immediately. The police came to my bed every second day but this whole thing was stretched until the 27th of January 1945. After it was not possible without risking the lives of my next of kin to escape, I had no other way but to let the police take me back to Flossenburg. The police did not bind me and I was not officially escorted by any uniformed man. I was taken to the train station and I was told that if I would not have reported until the next day, 12 o'clock, I would be looked for. The next morning I actually arrived in Flossenburg, reported there to the Adjutant Baumgartner. Baumgartner had a file in his hand. He said, "you will find out when the commander gets back", and he slapped this file across my face. Koegel was not there. He was on a tour of duty and arrived 2 days later. When he arrived he called me. Thereafter I mentioned I had immediately gone to the hospital because I had such a swollen leg that I could hardly walk. Dr. Schmitz told me that I had to go to bed. When the commandant was there he called me and immediately I received some slaps in the face with his fist in the corridor of headquarters, and by his orders Baumgartner had to administer 25 stick strokes to me. That is the way I was lying around till the 3d of March 1945. That was the Saturday and then I was called to the orderly room and 3 other prisoners beside me. We were told to get ready immediately because we were going to be put on the transport to the unit Dillewanger. I have to mention there that we were put in uniforms in the camp. Every man received a knapsack and 2 pairs of socks and no weapons. We were not allowed to return to the camp. We were led immediately

to the administration section. There we received the pay book with a stamp of the concentration camp Flossenburg. The first sergeant who was armed then took us to Karlsbad over Forst on the Neisse River. About 12 kilometers in front of Forst, before you reach Forst, there is the village of Mulknitz. Headquarters was there and there we were delivered March 10th.

Q What year?

A 1945. We were told, "you are coming from a concentration camp". We answered "yes". We were told, "you will not be sent to the firing line. You will stay back here with the Signal Corps". These people were evidently afraid that we would desert. That belief was my intention from the first day on. At that time I had to mention that the Russians were on the other side of the Neisse River and on this side the Germans. The shooting was until in the evening. We heard that, I never got any nearer than 10 kilometers within the German trenches. This was too much for me and I ran over with a Luxemburger in the evening, but that was already the beginning of April last year. We deserted to the Russians and we showed our pay books. They saw my stamp "concentration camp Flossenburg" and they believed me that I was a former inmate - political prisoner. It was in the book of my comrade that he was a Luxemburger and had been forced into this unit Dillewanger. Both of us were sent to the Russian prison camp Sagan in Silesia. There I was released on July 25th because of sickness. I had diarrhea. By way of Kottbus Hall Hof I went back to Fussen to my home and arrived there on the 7th. I have to mention here that I met a friend of mine in Sagan who had been with me in Dachau and Flossenburg. I have to also mention that in the unit Dillewanger no one held rank except officers. It was a so called SS special unit and we were forbidden to wear the

death head of the SS insignia, and we were told that we were not allowed to wear that.

If I may be permitted, I would like to tell the court how the unit Dillewanger was formed and who Dillewanger himself was.

PRESIDENT: Proceed.

A Dillewanger himself was an SS Oberfuehrer which is a little more than an SS Standartenfuehrer - a Colonel. From a reliable man who had known him in his home town - he is from Schwaben, from Wurtenburg - I got information that was confirmed by other people to whom I talked who had been with this unit for years. Dillewanger himself had been punished prior to that 2 or 3 times because of theft. He immediately was taken over to the SS when Hitler came to power and when the war with Russia started he was sent to Russia, was degraded there because of crooked deals and was arrested. He asked Himmler to be allowed to activate a unit combined of people who had been punished in Germany previously for theft and forestry. Later on people from penitentiaries and from concentration camps were taken to that unit. Until 1943, only people with green triangles had been taken and thereafter, also people with red triangles. These people were sent to places where any Wehrmacht officer would have refused to sacrifice the lives of any man. Dillewanger never received any kind of military training. As they arrived they were sent to the firing line. They were degraded Colonels or Captains. As a matter of fact, many degraded officers such as riflemen, outside of the above mentioned people. There were also many people who had infringed laws in the Wehrmacht. In one word it was "a wild unit", and there was no question for me that I would not stay with this unit and fight against any ally. That is why I deserted

and returned home on August 7th. The next day I reported to the police in Fuessen. From the police I was sent to the CIC and to the military government and I reported there also. In Fuessen I opened a concentration camp committee on recommendation from Munich. I did not receive any pay from that because I was an employee of the municipal government of Fuessen. I went quite often to the French zone to Lindau to pick up fruit and fruit juices for the sick people and the people who had been politically persecuted in the hospitals in Fuessen. This is my last travelers pass to Lindau (displaying pass). On February 13th of this year I was arrested.

Q Where was you arrested?

A In Fuessen.

(The travelers pass referred to was marked Defense Exhibit No. 11 for identification.)

MR. MCKAY:

At this time I would like to correct an error that was made in identifying an exhibit for the defense. It was a map which was introduced as Defense Exhibit 14 and should be shown as Defense Exhibit 9 rather than 14.

PRESIDENT: The record will be so corrected.

Q I hand you a document which has been marked Defense Exhibit 11 and ask you if that is the pass you have just produced from your pocket and handed to the interpreter.

A Yes.

MR. MCKAY:

Defense offers in evidence Defense Exhibit 11, a pass.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objection.

PRESIDENT: Defense Exhibit No. 11 will be received by the court in evidence.

(The pass heretofore marked Defense Exhibit No. 11 for identification was received in evidence as Defense Exhibit No. 11, is attached hereto and is part of the record.)

Q Following your arrest in February of this year where were you taken?

A To the special camp in Dachau.

Q During the time that you have been held since February, have you ever been interrogated with regard to this case?

A Yes.

Q Will you explain the interrogation to the court?

A I had been here for about 8 days in February and then I was taken for my first interrogation. There was a Polish Captain there and Mr. Berkowitz. Mr. Berkowitz told me, "you were the camp eldest in Flossenburg and you are an important witness for us". I asked him what I should testify to and he said about the things that have happened in Flossenburg. I told Mr. Berkowitz immediately I myself beat people. Mr. Berkowitz said that I should help him and he showed me pictures of several people. I cannot say that it lasted too long. It may have been a half hour or three-quarters of an hour. Then I was released again. Sometime later I was again brought up but there the Polish Captain was alone. Then I was again summoned to Colonel Shaw; that was shortly before the beginning of the trial. Colonel Shaw told me a couple of particulars of the accusation. He told me, "you should not be alive anymore". He said, "you know what you did in Flossenburg", and again read to me several particulars of the charge . He said, "why did the Russians release you"? I stopped a moment to think over the answer and he said, "well, because you was a communist in former times, were you". I said, "no, because I was sick". He said, "but I will still accuse you". I said, "I cannot help that". That was all.

(Mathei-Direct)

PROSECUTION: At this time I move to strike the entire testimony of this witness with respect to any conversation he had with Colonel Shaw on the ground it is immaterial to the issues of this case.

MR. MCKAY: If it please the court, the intention of this evidence is to give the court a complete picture of this man insofar as possible, and any conversation that he had with the former prosecutor Colonel Shaw, can be given as much weight as the court may deem it is entitled to in order to determine why, if possible, this man may have been required to stand trial. It is one of the facts that this court is to take into consideration in determining the reasons why this man is here. It is always necessary for the court to have such information so that it may give full credibility to the testimony of this accused in his own behalf.

PRESIDENT: Anything further Mr. prosecutor.

PROSECUTION: Nothing further except that it is immaterial and irrelevant, and everything that has been offered by the defense counsel as a reason for its admission would certainly be immaterial and irrelevant. If the court wishes, of course, they could take in the history of this man from the time he was born down to the present time and it would, of course, show a better picture of the accused than has been presented to the court. But the court is normally bound by the issues that are framed in the particulars of the charge.

MR. HALL: If the court please, I feel compelled to make a remark in view of the forthcoming testimony in which I am going to be interested. I assure the court that it is quite material in my cases to develop the history of a man from the very day he was born until the present day in order that this

(Mathoi-Direct)

court might get a picture of who this man is and I submit that there is going to be an effort to do that in the future and I do hope the court will consider the necessity of that in its deliberations at this time.

PROSECUTION: In reply to that, may it please the court, I certainly hope that the court will confine those matters from the time a man is born down to the present time to those issues and those matters which will shed a light upon the issues that this court is trying at this time.

PRESIDENT: Court will close.

(Whereupon the court recessed at 1610 hours and reconvened at 1620 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Major Oeding and Dr. Engelhorn, who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski, and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who are expected to be called as witnesses in this case, they may leave the courtroom.

PRESIDENT: The motion to strike on the part of the prosecution is denied. Proceed, Mr. McKay.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Mathoi, I would like you to explain to the court what the attitude of the inmates was toward you at Flossenburg

(Mathoi-Direct)

because of your relation with Koegel.

A It was, of course, known to the SS that Koegel was from Fuessen. When I arrived in Flossenburg I had to give my personal data in the orderly room and, of course, in headquarters as every prisoner had to do. When, of course, the prisoners found out that I was from Fuessen and that the commander was from Fuessen, they all thought that I was a friend of his. The wildest rumors were going around in camp. At one time a prisoner said to me, "hey you, your brother is an SA Major"; another one said, "you knew Koegel quite well in former times. Are you a friend of his or your brother", and I explained the following to them. Fuessen is a small village with 7,000 inhabitants. One man knows the next man. In 1928 I saw Koegel for the first time but I knew that he was a Nazi. In 1935 I again saw Koegel. At that time I was employed as a housemaster in the Hotel Lissel in Hohenschwangau near Fuessen. At that time the SS guards of Dachau undertook a visiting tour of our Kings Castles with Koegel. It was also my duty to stand on the parking lot of the hotel and watch the cars of the guests. That day it had been raining hard and Koegel came up to me and said, "dry my coat until I get back". Those are the only words I ever talked to Koegel in all my life. Then I did not see him again until I arrived in Flossenburg.

Q During the time that you were in Flossenburg, I want you to explain to the court just what the situation was with regard to rumor whenever one prisoner would beat another prisoner so severely that he would die as a result.

A That became known immediately. This person would be reported immediately. Besides that he would be beaten up by the inmates of the camp murderously. He received his beatings with a stick or thrown into arrest and was there for about 2 or 3

months until Berlin had committed themselves because this had to be reported to Berlin as well as the post mortem report had to be sent up there also, and after that he would be sent to Mauthausen immediately. I know about one case when the prisoner did not go to Mauthausen, but he received his beatings, was in the arrest, and was then released.

Q Who was that?

A The only reason that he was not sent on the transport was because first sergeant ~~Kubler~~ Kuebler participated in this beating.

Q Who was this man?

A Miehof. At that time Jakubith was dragged into this thing. After the investigation had been concluded they found out that Jakubith was innocent, that he had already received his 25 beatings. In one case, Miehof busted a Polish bible searchers jaw. ~~Kubler~~ Kuebler brought this man to the hospital and told me "he will hide this man in the convalescent block on the third bed so that the doctor cannot see him". I looked into this man's mouth and I said, "sergeant, this man cannot eat. He will starve to death". I said, "I have to take him to the dentist and the dentist will surely report it to the doctor. I should not dare to report this otherwise he will tell me something different. I still told Dr. Schmitz about it when we made our visit the next day. This man was immediately sent to the French dentist by the name of Trump, who was here on the witness stand. He set his chin, his jaw, and the man was cured. I don't know what ~~Kubler~~ Kuebler got for it. The SS man did not tell us if an SS man was punished for that reason. I mention this to show that it was not very easy to injure a man without anyone knowing about it, or that the prisoner or an SS man would not be punished for it. That could have been different in former times. I only know

(Mathei-Direct)

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(Mathoi-Direct)

about my time while I was in Flossenburg. I only know about this one case of Kuebler where he was terribly afraid to show this prisoner to anyone.

Q You spoke of Jakubith. What was Jakubith's position at the time of this incident?

A Jakubith was the capo in the stone quarry. I have to emphasize that while I was camp eldest, I went to the stone quarry 2 or 3 times, that is to say only to the orderly room there. For mere curiosity I wanted to go and see how these planes were built and for that reason I went into one of the halls at one time to look at it. An SS man came along and said, "we don't need any factory spies around here..take off", and ever since I went back to the stone quarry or to the halls.

Q During the time that you were hospital capo, did you ever have any case of men brought in from the stone quarry who had been beaten?

A Not from the stone quarry but from the camp.

Q Do you know what happened to Jakubith?

A I don't know what happened to Jakubith. I know that he received his 25 beatings and was chased back to the stone quarry. At that time he wanted to be relieved. I heard that myself when he asked Captain Fritsch to be relieved, but Captain Fritsch Reitz just kicked him in the buttocks and chased him back to the stone quarry.

Q Do you know where Jakubith is now?

A Yes, here in the dock.

Q Will you point him out to the court?

A The small man. The third one; No. 21.

Q Mr. Mathoi, you told us that during the time you were camp eldest you lived in block 1. Will you explain to the court

what other type of prisoners lived in block 1 during that time?

A All of the kitchen personnel, all the men who were doing their duty in the food warehouse - Poles, Czechs, Russians, and Germans. Later on after I had been relieved there were also Frenchmen, Italians, and Hungarians there. As I mentioned before, in 1943 when I arrived there was 30% foreigners and 70% Germans.

Q Now Mr. Mathei, was there anything unusually different about prisoners who lived in block 1 from the prisoners who lived in other barracks from the camp?

A In block 1, I should say about 80% were all capos or else foreigners who held positions. To look at it objectively a block eldest or capo was not a prominent prisoner because they only had duties, not any rights.

Q What do you mean then when you say "prominent prisoner"?

A Prominent prisoners were those who usually had any kind of a position in the camp - orderlies who worked for the SS, SS barbers, those who worked in the supply room and in the warehouse for personnel belongings, the kitchen personnel and personnel from the food warehouse, the capos, the camp eldest, the block eldest, the hospital capos, the male nurses in the hospital. The ones who possessed the most powers in the camp at that time were Golitz Golbe, my predecessor Ruschert, and the man who held all the strings from every place in his hand in the camp was Joseph Budden. He belonged to Ruschert's club.

Q Do you know where Budden worked while you were in the camp?

A Yes, in the arrest. He was orderly there and interpreter in our Slav languages. He conducted the interrogations in the presence of the SS; that is, he translated everything orally and also translated the letters of these people. Budden

was dangerous. Budden would go to any block in which he heard there was something to drink; went there, drank with the people, and reported the block the next day. Almost daily he approached me while I was still camp eldest and always tried to interrogate me about the commandant and my political attitude, but when I came to Flossenburg and until the time that I became camp eldest I received information about various prisoners. He was too dangerous for me as well as the Serbian Colonel Martain or Martin, I cannot remember exactly. This man activated by orders from headquarters in the fall of 1944 a unit combined from all foreigners; thousands of them to fight partisans, guerrillas. He was a prisoner just like all other prisoners. When I heard about it I asked him, "aren't you ashamed of yourself being a foreigner and taking all your foreign prisoners to activate a unit for this state. He said, "yes, I have to do this for the commander. The commander gave me the orders to do so and if you want to try to prevent it I will have to report you". I was forced to beg him not to do that because I know what would happen to me. The same thing with Vonstein. I do have to mention this man. Vonstein was a Russian 1st lieutenant and in his civil profession an engineer. Every Saturday he went to the arrest and came back on Monday morning to work in the stone quarry. He was an airplane engineer and airplane constructor and he drew all the charts and blue prints of Russian planes and handed it over to headquarters. He was promoted for that to the obercapo of the armaments factory. Captain Fritsch called all capos, block eldest and clerks from the stone quarry to the roll call square. He said, "Vonstein is under my protection and anyone who touches Vonstein will be thrown into the arrest".

Q Mr. Mathoi, you have spoken a number of times about

capos. Now I want you to explain to the court the difference between a capo and the block eldest.

A The block eldest was within the camp responsible for his block and did not have any power over the capo outside in the work detail. But by order of ~~Seiler~~ Fritsch, Brumgartner, and ~~Hubler~~ Kuebler, several capos had to help the block eldest in the blocks after the people had returned from their work. I have to emphasize that every block was supposed to have a maximum of 250 prisoners. Had the maximum not been exceeded, every prisoner would have had his own bed. Until Christmas 1943, that was about the case. In February 1944 there was at least 500 prisoners already in each block and in October and November 1944 there were up to 900 or a thousand prisoners in the blocks. It was impossible for any single man to have a bed for himself. People were sleeping on straw mattresses that had been placed on the floor in the dayroom and during the daytime these straw mattresses would be put on top of the lockers. Under these circumstances, of course, it was impossible for the block eldest; his clerk, and his orderlies to handle all these people easily since there was blackout. The food had to be distributed in a hurry because the food had to be given out while it was dark in air raids and then one prisoner would steal in the dark the bread of other prisoners. The danger of epidemics was very great in the camps and delousing had to take place every day. Those who had lice were sent down to the bath; their clothes were disinfected and these prisoners were given a bath and they had to wait until their clothes would return.

Q Mr. Mathoi, you speak about packages being distributed in the post office. Did you, as camp eldest have anything to do with distribution of these packages?

A Yes, Captain ~~Seiler~~ Fritsch gave my the orders to help the SS

sergeant Bergmann who was running the post office. He gave me this order in his presence to help him at any time to distribute the packages. For the simple reason that the camp oldest who had been there before me had put these prisoners under pressure, that is to say packages had been opened and whenever he saw something nice he told the prisoners they had to hand it over to him; I have often rejected presents that were offered to me by prisoners from their packages for the reason that I said to myself he doesn't receive packages very often and what he receives he needs for himself. Block oldest tried to make presents to me when I arrived in camp and sometimes cooked some food themselves and placed it on my table. I have always returned it and I was known for it. I didn't want to have anything that I didn't have coming to me and that had not been obtained legally.

Q Mr. Mathei, going back to Jakubith again for a moment, Did you ever see Jakubith in the hospital?

A Yes, Jakubith had yellow jaundice and was in the hospital.

Q Do you know how long he was there?

A I believe 4, 5 weeks. He was in block 16 and I was able to determine at that time and I was surprised about it that many Poles and Russians came to his bed to visit him.

Q During the time that you were in the camp did you know what Jakubith's general reputation was?

A Yes.

Q Explain that to the court.

A All that I can tell the court is that I was told that the smallest cops was Jakubith and he was in the stone quarry, but I never heard that he treated anyone brutally, but I know

some people who were well known to me as brutal guys that it was peculiar that these people did not live long. Some of them died. They were given fleck fever; some others through infected lice in their bed. I know about one case about the block eldest in block 23, Bachich, an Austrian. He kicked one prisoner in the stomach and this prisoner ruptured a gut. This prisoner was operated on by Dr. Schmitz. Dr. Schmitz made the report to headquarters. Bachich was reported and while this report was still on the way to Berlin, Bachich died. Then I know this capo, Zimmer. In February 1944 he arrived in Flossenburg from Auschwitz. Zimmer was the assistant capo in the road construction detail. Rumpelsbach, at one time the block eldest of 21 told me that Zimmer was in the block and had demanded 2 portions of bread and the margarine together with it. The block eldest asked him, "why did you want that". He said, "well, there are 2 dead people, I have kicked them around till they died, now I want their bread". When this case was investigated they found out that he had administered chicanery to one of these until this man was desperate and ran into the chain of guards and was shot to death there. The other one he beat and worked so hard that the man died. For one thing, I beat this man Zimmer up good and proper. Ruechert came in when I was beating this man Zimmer. Ruechert reported this thing to Major Schnabel. Schnabel then took his riding crop and drove this man Zimmer through the whole camp beating him with the riding crop. Officially Zimmer received 25 beatings and was sent to Mauthausen. The block eldest Kothacker, formerly capo in the stone quarry became block eldest, shortly before I arrived in Flossenburg, was a wild beater, a beater in this manner; that he would put the pressure on these prisoners as far as their packages were concerned and if they

(Mathoi-Direct)

would not give anything to him he would beat them up. But it wasn't the beating alone these people administered to the prisoners. First they beat them up and then they reported them to the SS. Rothacker died from fleck fever. They threw lice into his bed.

Q Mr. Mathoi, is there anything else that you want to tell the court which I have not asked you during the course of your written examination?

A Yes, if I get the courts permission, I do have to mention this about the camp.

PRESIDENT: Proceed.

A This might look like an act of revenge but it is not. It is my duty to tell this to the court. There are men in the dock here, if I may say so, who do not belong here. Paul Tourmer was one of the men who was a male nurse in block 13 in the hospital. Block 13 was the TB station and Tourmer was leading a nice life there. All prisoners who arrived in camp and had medicaments on them had to hand those medicaments over when they were searched so that nothing wrong was done in the camp with them. When I was camp eldest there it was reported to me that so called drinking orgies were celebrated in the hospital, and that was the so called center for the homosexuals. It was my duty as the camp eldest to follow up this thing otherwise this prisoner would have reported me to headquarters. When I entered the hospital and went into the orderly room there was Golt, Tourmer, Budden, Hauler, and one other man whose name I have forgotten. I said, "is that all you have to do. Is that all the work you have to do;while all the other prisoners are still out you have to steal in here and drink". Then they started out, "if you think you can tell us anything, if you think you come to

(Mathoi-Direct)

Flossenburg to tell us anything, you damn camp eldest, we will beat you up so damn hard that you will croak". They threatened me quite often that they would attack me at night and beat me to death. But it was not alone the drinking. The bad thing was the sexual errors committed and injections of morphine and evipan. All my talks did not help any. The thing continued. Now, I had the alternative either to make a report or else to take a hand in it myself. In the meantime, however, the SS had found out about it and in February 1944, SS Sergeant Schreiber, who is in the dock, searched block 13. There he found Toerner drunk, with a glass of alcohol in front of him on the table. This was reported to the SS hospital. Toerner was relieved and his lockers were searched. They found the following: A lot of medicaments that were partly spoiled, such as pills, morphine, evipan, and a lot of spoiled food, margarine and bread. I would like to mention something about that bread.

PRESIDENT: The court will adjourn until 9 o'clock Monday morning.

(Whereupon at 1700 hours the court adjourned until 0900 hours 30 September 1946.)

(Mathoi-Direct)

Legal Form No. 8

Legal Form No. 8

MILITARY GOVERNMENT COURT
MILITÄRGERICHT

CHARGE SHEET
ANKLAGESCHRIFT

Place
Ort

Date
Datum

Name of accused
Name des Angeklagten

is hereby charged with the following offences:
wird hiermit wegen der folgenden strafbaren Handlungen angeklagt:

First Charge: ..... Erste Anklage: .....

Particulars: ..... Einzelheiten: .....

Second Charge: ..... Zweite Anklage: .....

Particulars: ..... Einzelheiten: .....

The above charges are referred for trial to the *Summary *Intermediate Military Court to be held *General

Die Verhandlung wird vor dem *Einfachen *Mittleren Militärgerichte *Oberen

at ..... on 194
in (Address of Court) am
(Anschrift des Gerichtes)

at .....
um Uhr stattfinden. By Order
Im Auftrage von

*Strike out words not applicable.
*Nichtzutreffendes ist durchzustreichen.

(Signature of person preferring charges;
(Unterschrift des Vertreters der Anklagebehörde)

Copy of above served on accused 194
Abschrift dem Angeklagten zugestellt am

(Signature of person making service)
(Unterschrift des Zustellers)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 4226 - 4309 incl.

FLOSSENBURG
Case No. .....

~~Summary~~
~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 30 September 194 6
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:

KARL MATHOI

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning 194
- Fine
  - Amount .....
  - To be paid before 194
  - or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

30 Sept. 1946 0900 - 1700 Hours Pages 4226 - 4309 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
KARL MATHOI	4226	4235 4238 4264 4303	4269 4293	4295 4305	4274 4290 4309

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
I-69	Mathoi's Statement	4259	4268

Camp Dachau, Germany
September 30, 1946

MORNING SESSION

477,9/30
lsp

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: ~~Magistrate~~ may it please the court, let the record show that all members of the court are present, all of the personnel of the prosecution are present with the exception of Colonel Denson who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, and all the accused are present except Buddensieg, Olschewski and Oswalt who are sick in the hospital.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave.

PRESIDENT: Mr. ~~Mac-Kay~~ Mackey, proceed.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. ~~MAC-KAY~~ Mackey:

Q Mr. Mathoi, during the time that you were a prisoner in Flossenburg concentration camp, did you ever come in contact with a man by the name of Gieselman?

A Yes.

Q Will you explain to the court the nature of your acquaintance with Gieselman?

A Yes. When I arrived in camp, Gieselman was one of the first men I got acquainted with, one of the first, who is sitting here in the dock. At that time, he was in charge of the canteen and he was taking care of his written work in the clerk's office in which I myself worked at times.

Q During the entire time that you knew Gieselman did he remain in the prisoner's canteen?

(Mathoi - Direct)

2sp.

A No. Gieselman was relieved one day because of the following. At one time one of the trustees whom I had mentioned here before, Ott told the captain that Gieselman did not want to go along any more with the comedy on the part of Fritsch and that he wanted to be relieved. Fritsch called Gieselman immediately after Ott had told him that he slapped Gieselman a few times and relieved him and sent him to the stone quarry immediately. The thing was concurrent with the events that I have described as far as the potato warehouse was concerned because the potato storage room was right next to the canteen. Fritsch told Gieselman that he was tolerating this but he did not tolerate it because for the simple reason that he was not even allowed to leave his block at night. Gieselman was relieved in '43, Christmas, and he worked in the stone quarry until May when he was transferred to block 19 as block eldest.

Q Will you explain to the court the type of prisoners that lived in block 19 during the time Gieselman was block eldest there?

A Only juveniles under 18 years, approximately 900 to 1,000. Of course there wasn't enough room at all. Every day the windows were pushed out because the room was too small. Besides that Gieselman had trouble with older prisoners who wanted to visit this block for the reasons that I have described already. Gieselman came quite often to the hospital when I was there to me with four or five prisoners and told me that this was wrong with them and to give them pills. Of course I always sent them to Dr. Schmits After I had been relieved, I went to visit with Gieselman quite often in the evening because he had many books and I wanted to borrow books from him. I like to read. Of course I also saw that Gieselman beat. However I cannot say that I ever saw him with an instrument or a rubber hose.

Q Will you describe these beatings which you saw Gieselman give when you would visit this block.

(Method - Direct)

A He hit them against the car with his hand. I cannot say that I saw any prisoner stand on a chair. That could have been some other time. However, I have not seen it.

Q Do you know what the reason for these slappings was by Gieselman?

A Yes. Of course, mostly they would take their blankets, tear them up as I have described before and make foot rags out of them and then steal their neighbor's blankets at night and then there were also people who were dodging the delousing people in the block and would proceed with their blankets and clean laundry and there would be fights because of thiefs who stole bread from the others.

Q Was Gieselman block eldest of block 19 during the time that you were camp eldest?

A No, Milos Kucera was the block eldest then. Kucera was relieved of his position because of an inspection pulled by Fritsch. Fritsch found dirty lockers in the shack and after he had received some slappings was relieved.

Q Do you know what Gieselman's general reputation was in the camp during the time that you were there?

A During the time that I was there I cannot say that Gieselman had a bad reputation.

Q Do you know where Gieselman is today?

A Yes, he is here in the dock.

Q Will you point him out to the court.

A No. 14.

Q During the time that you were a prisoner in Flossenburg did you ever know a man by the name of Ginschel?

A Yes.

Q What is the nature of your acquaintance with Ginschel in Flossenburg?

A I saw Ginschel for the first time when he was the gate runner -- that is to say, he was standing right next to the block

dsp

leader's room and he had to be in the immediate vicinity of the gate all the time, but Ginschel was then relieved because there was some hard work to be done and he could not do that very well with his one arm. He was then given to me. He was sent to the hospital between blocks 13 and 18. There was a wall which separated them from the arrest building and in that wall was a gate. It was his job to keep people from running up towards the hospital or keep people out of the hospital who did not want to see the doctor, who did not have any certificate of permission, but he couldn't do that either because they ran him down. He was then relieved and was sent to block one as an orderly.

Quite a few times in the evening he had the food distribution and he had to sweep the barracks with a broom. I don't know just how he did it because I was in there very seldom, because when Ginschel was in block one, I had been relieved already and I was working in the stone quarry. When I came there in the evening to get some food when he was distributing the surplus food which had been done prior to that by me, I saw several scenes, for instance, that he would step out of the barracks with his whistle and they would run him down.

Q Who would run him down?

A The prisoners. On a Saturady evening I saw him come out of the kitchen. He ha a board on his shoulder which he was holding with his right hand. On this board which was the so-called ration board was the margarine which was designated to be distributed for the prisoners in block one. Some prisoner tripped him and he fell down on the rollcall square and of course all the margarine was smashed. Other than that I don't know anything to say about Ginschel.

Q Do you know what Ginschel's general reputation was in the camp during the time that you were there?

A I can't say that anyone even talked about Ginschel. What

(Mathoi - Direct)

Sep

does this man want to do with his one arm? He himself was a cripple. The prisoners would laugh about him because he was slow.

Q Do you know where Ginschel is today?

A Yes, in the dock.

Q Will you point him out to the court.

A No. 15.

Q While you were a prisoner in Flossenburg did you ever know a man by the name of Raymond Maurer?

A Yes.

Q What was the nature of your acquaintance with Raymond Maurer in Flossenburg?

A It has been a long time ago, in January or February 1944 when I first talked to Maurer. Before that I didn't know him. Maurer came to me and told me about Niehoff. He came to me and cleared up this Niehoff deal but at that time the SS had already conducted investigations and it was found out that Niehoff and Kuebler alone had carried out t is deal. At a later time he again came to me and told me that was a man on his block, an Austrian, one who was brutal against his fellow prisoners and who put the pressure on them whenever they received packages. I called this prisoner and asked him about his conduct towards his fellow prisoners. After I found out that Maurer was correct in his statement, I beat this prisoner up. Otherwise, I didn't see Maurer or did not become a friend of his. That was the only time I really saw him.

Q You said you beat the man up. Will you describe just what you did when you beat the man up.

A I slapped him a few times good and properly in the face.

Q What do you mean -- good and properly?

A I mean I didn't hit any too slowly. If I report him, he will be thrown into the arrest and he will receive 25 beatings. That is the very least he will get. It was a principle of mine not to report anyone.

Q Do you know where Maurer is today?

A Yes, here in the dock.

Q Will you point him out to the court?

A No. 27.

Q Mr. Mathoi, during the course of your examination, you have mentioned many times the trouble you had with prisoners. I would like to have you explain to the court just how these foreign prisoners acted among themselves.

A I believe that I am correct and that I can give a true picture of the situation to the court.

Q Explain that to the court.

A According to the general observation not only by me but by others also, the Poles didn't like the Russians, the Poles didn't like the Frenchmen. The Czechs like the Russians. The Russians didn't like the Poles. The Italians were invidious individ als generally. The Yugoslavs didn't like the Poles. It was an everlasting fight there and after working hours in the evening when there was free time, you could always see certain groups be together. They always beat themselves up and even stabbed themselves with self fabricated knives made out of duraluminum, the airplane metal. Every prisoner received a winter overcoat and sweater. Every once in a while the rollcall leader would spot check the prisoners. The prisoners would have to be in their blocks, open their jackets and he would see if they had their sweaters on. It was peculiar that the Russians actually always had sweaters and the Italians almost never had any. Either they sold it on the black market or others stole it from them and they sold it on the black market. It was a helter skelter situation. It was impossible to find your way around because the camp was so overcrowded, so that you did not know any individual person. It was only theft and black marketing and so forth. That is all I have to say.

7sp

MR. ~~MAC KAY~~ McKay: You may cross examine.

PRESIDENT: Mathoi, have you anything further to say to the court at the present time?

A Yes.

PRESIDENT: I t ink, Mr. Mac Kay, he should be given an opportunity to make any statement.

MR. ~~MAC KAY~~ McKay: Pardon me, Sir. I overlooked that.

PRESIDENT: Go ahead.

A There were a thousand or 1200 Germans I should say in the camp. Despite the fact that so many Germans were there, I should say that 60 ~~percent~~ per cent of all the positions were taken by foreigners. For instance, the block clerks there were maybe approximately three Germans and the other 15 or 16 were foreigners, Czechs or Poles. In the warehouse for personal belongings of the prisoners for their clothes and their personal belongings were only foreigners. In the prisoner's warehouse there were two Russian PW's and one German. In the prisoner's kitchen there were 35 people only cooks who worked there. There were six to eight Germans. The others were foreigners. Except for two orderlies, all the rest of them were foreigners. SS barbers were three Germans. The others were foreigners. The prisoners dentist was a foreigner who was here in the witness chair. His name was Trupp. Generally everywhere in every position wherever you looked were mostly foreigners and if you wanted something special that you could not get by requisition from the SS for the camp, you would have to go to these people. The distribution of brooms, soap and any cleaning material was up to the man who was in the witness chair here, Pletanek a Czech. He was in charge of that. I should like to tell the court that all of these men who accused me here who were witnesses committed some kind of a violation against their own fellow prisoners or made their statements here out of hatred. I should like to describe to the court one case to picture how difficult it was to

8sp

check at night after all the other prisoners had been in bed in their blocks. When I was camp eldest there was no shooting in the camp. I caught several prisoners at night. I sent them back to their beds but I did not make any report. When I was the hospital capo, two shootings took place at night in the camp. My successor caught one a prisoner who had broken into the kitchen. He was a Russian. He immediately reported this to the block leader's room. Two of the block leaders came in. They chased the prisoner outside and shot him to death outside on the staircase. The former block leader Herde who is now in the special camp here told me at one time -- I don't know whether it's an actual fact -- I didn't see it -- but he told me once that he went back to the warehouse where the cabbage was stored and that he sat down ~~inbetween~~ in between the cabbage barrels. A Russian prisoner who had left his block at night hid in this cabbage room and took one handful of sourkraut. Herde shot him to death right there where he was. The next morning at rollcall, the hospital was immediately informed about it and I went back there with two male nurses and a ~~liter~~ litter to pick this man up. The two male nurses arrived at this spot maybe a minute before I did. Then Herde said, "He is still alive, I will shoot him once more so you can save your bandaging material". Besides that I picked out of the books here all prisoners by the name of Martinek because the prosecution witness Bommelaer stated that I had beaten a prisoner by the name of Martinek so severely that he had died from it. Also the Frenchman Croise whom I allegedly beat to death with a pick is still alive. All these people are alive.

I should like to talk about the case about which the Czech Kamenek talked. There was no breakfast whatsoever on Sunday for any prisoner. In February 1944 the wall behind block 11 broke down and pushed in the whole rear end of the block. I asked some prisoners who were masons if they could not put this wall up again on Sunday

sp

morning. The prisoners agreed but they wanted a breakfast for it. I went to the kitchen and begged for the breakfast for these men. These breakfasts were given to me in a cardboard box, and I went with it to block 11. I put this cardboard box down at the corner and went around and called the prisoners so I could give it to them. In the meantime a Russian had approached this box and had taken two pieces of bread out of it. I caught him and I slapped him once in the face. The man fell down and struck a bucket in which was cement. This prisoner was taken to the hospital. He had a hole in the back of his head and at noontime he was out of the hospital again. Kamenek accused me for the simple reason because his prisoners who worked under him in the woodyard told me twice that he embezzled their breakfast bread. Had I reported Kamenek, he would have been thrown into the arrest and would have received 25 beatings. This way I hit him several time in the face with my flat hand.

I should also like to state for the court that if I had taken the life of anyone, I would have never returned to my home. In the Allgaeu Zeitung it said all persons who knew something about block eldests and capos in Flossenburg should report and make their statements. If I had had a bad conscience, I would have dodged this, but this way I did not have any reason whatsoever to take any interest in it. I rejected every time to assist in any kind of an execution and by risking my own life and there would be no reason for me whatsoever to take the life of any man illegally. That is all I have to say.

PRESIDENT: The court understands Mathoi, that is all you have to say at the present time.

ACCUSED: I have one more thing. I seem to have been or at least that is what it looked like -- the only prisoner who had received any kind of a furlough in Flossenburg. Every prisoner who was released from Flossenburg and went to the Wehrmacht received a furlough outside of those who went to ~~Furlowanger~~ Kellerwanger. I was also one of those who was

(Mathoi - Direct)

sp never allowed to receive any visitor because Koegel probably didn't want it. He was probably afraid I would talk. The prisoner Lesak who was here on the witness stand received a furlough. He went home and he returned. That is all.

PRESIDENT: Cross examination. Colonel Denson?

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Mathoi, is the manner in which you slapped that man, that fellow down and knocked a hole in his head on this Sunday morning, the same manner in which you boxed the ears of other prisoners?

A No, it all was so fast that I just caught him with the back of my hand because he wanted to run away.

Q So that you didn't hit him as hard as you usually hit the other prisoners that you had to punish in order to keep from making a report, is that correct?

A That can be correct, yes.

Q Now you have stated to the court your relationship of the different nationalities to each other, the Czechs to the Russians, and the Poles to the Russians and the Italians to the Russians and the French, etc. Would you please describe to the court or tell them who it was that was liked by the Germans.

A That is hard to say. To say with one word, the Germans were hated because understandably the foreigners saw in every German their enemy. The same thing would have happened to me if I would have been incarcerated in a foreign country. I cannot love any member of any nation which threw me into the concentration camp.

Q Well, tell the court please, Mathoi, who it was that the Germans loved.

A To get along with best were the Czechs because the Czechs caused the least trouble. They were clean and they never caused any attention.

Q Lasek was a Czech, was he not?

llsp

A Yes.

Q Kamenek was also a Czech, wasn't he?

A He was also Czech, yes.

Q Now tell the court please, Mathoi, approximately what percentage of the capos were German.

A Well, as I have stated before when I arrived in Flossenburg in '43 at that time more Germans were capos. I of course include the Austrians in that when I say Germans, but in January or February 1944 this picture changed considerably. Mainly in the warehouse for personal belongings there was no German whatsoever.

Q Well now, tell the court what percentage of those German capos were the wearers of the green triangles for criminals.

MR. ~~MAC KAY~~ McKay Objection. It is objected to as improper in form in that it states that the wearers of the green triangle were habitual criminals which is a misstatement of fact.

PROSECUTION: I have a perfect right to refer to them as criminals or the wearers of the green triangle in view of the testimony from their own witness by the name of Pfister . The court will recall that he testified that those prisoners who wore green triangles were criminal prisoners and that being in the evidence, I have a perfect right to refer to them in that manner.

PRESIDENT: Anything further, Mr. Mac Kay?

MR. ~~MAC KAY~~ McKay Nothing further.

PRESIDENT: Objection overruled.

(Whereupon the question was repeated in German by the interpreter).

A I shall endeavor to tell the exact truth how it was when I arrived in Flossenburg. I can't state exactly however whether it won't change as far as two or three men are concerned. In block two there was a block eldest who had a red triangle but he was released the same month when I arrived. In the hospital was Golta, besides

(Mathoi - Cross)

12sp

that Toerner. That is about all the Germans. I can't remember anyone else.

Q You don't know anything with respect to the capos of the outside details?

A I at times looked into the books but I did not know the capos of the outside details. That was very difficult. I know one man. He was in the outside detail, Gravenhoit and he had a red triangle. I only know the man from this outside detail because this man ~~Heitteiler~~ Gravenhoit came to the main camp every 14 days. Otherwise I wouldn't have known him either.

Q Now, those that you have named were red triangles, is that correct?

A Yes, red.

Q And all the rest of them were green?

A Green and partly black.

Q So that, is it not a fact, Pathoi, that in those places where property or valuables were kept the positions were held by the foreigners and not by the wearers of the green triangle?

A Yes, as I mentioned in the warehouse for personal belongings I never saw a German there. The leader of the detail here, the commando leader, Sergeant Schneider asked me at one time whether I didn't know a prisoner for his detail. I suggested several men to him. He didn't want anyone of them. He took another foreigner.

PRESIDENT: Court will take a half hour recess.

(Whereupon at 1000 hours the court recessed.)

Ta 478 9/30-1of-1

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: If it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Berkowits and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding and Mr. Hall who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital and Hoinisch who is absent on business with his counsel. The interests of these accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Cross examination, proceed.

CROSS EXAMINATION (Continued)

QUESTIONS BY THE PROSECUTION:

Q Now Mathoi, while you were capo in the hospital, how frequently did you treat persons in the hospital, prisoners who had been beaten?

A I only know of this one incident which I already described with regard to Bakisch. And then prisoners would come rather often to the hospital with a hole in his head, but would say that he got it in work in the quarry.

Q Was it forbidden for a prisoner to state that he had received that injury as a result of a beating?

A That was not forbidden to them.

Q As a manner of practice, isn't it a fact that prisoners did not say that they had received their injury as a result of a beating?

A No, as I know the prisoners from Flossenburg, I would say that if prisoners had received an injury as a result of being beaten, they would certainly have said where they got it.

Q What would happen to a prisoner who stated that he had been beaten by a capo?

A To a prisoner? Nothing would have happened to the prisoner. The capo would have been punished and relieved of his duties, and the capo would have thought twice before he hit a prisoner again.

Q Do you know of any instances other than the one you described where capos were relieved for mistreatment of prisoners?

A I know of this one incident of capo Zimmer which I described.

Q Other than that one instance, do you know of any others?

A I can't answer that question so quickly; I'd have to think about it.

Q Well, let me ask you this—when you testified on Gieselman's examination that one prisoner beat another to death, do you mean that one of those prisoners was a capo?

A This one prisoner, this Mr. Zimmer, he was a capo.

Q Well, was that the only instance you had in mind when you testified on Gieselman's examination that one prisoner beat another to death?

A I have been searching my mind whether I know of any other incident, but with all my best will, I can't think of any other. But I know of two cases where orderlies were relieved of their duties.

One was a Pole; the other was a German and I was with Major Schnabel in block 23 and the prisoners complained that these people were beating them. Major Schnabel himself beat these two people in question, and had them immediately relieved of their duties. In fact, it was a particular weakness of Major Schnabel that whenever a prisoner was beaten severely and had visible effects afterwards, or had later trouble in the hospital, Major Schnabel would always report.

Q Is it not a fact that the reason these prisoners tore up the blankets was to make feet rags because they didn't have any shoes?

A Prisoners always had shoes.

Q Well, what was the occasion of the prisoners tearing up the blankets to make footwear?

A The blankets were not principally torn up to make foot rags, but in order to make clothing for the upper part of their bodies.

Q Well you testified this morning here, did you not, that Gieselman had beaten these prisoners for tearing blankets for the purpose of making foot rags? Didn't you so testify this morning?

A Yes, but I didn't add then when I said that that the principal reason was to provide clothing for the upper part of their bodies. If you allow, Mr. Prosecutor, I would like to describe to you very shortly how they did that with the blankets. (Indicating) They would put three holes in the blanket and put their head and arms through and draw the blanket on them.

Q Also tell the court how they tore up these blankets to make foot rags.

A. Yes, the blankets at any rate were torn lengthwise into

smaller pieces.

Q And what did they do with those smaller pieces?

A They wrapped them everywhere around their legs and feet.

Q Well, what was the purpose of wrapping them around their feet?

A Because the foot rags were no good and the people didn't want to go to the clothing room and get more foot rags because they didn't always get them, I know that.

Q What was the function of these foot rags?

A To wrap up the feet because you couldn't run around in wooden shoes barefooted because you would rub your feet raw.

Q In other words then, the only shoes they had then were the wooden shoes, is that correct?

A Yes, most of them wore wooden shoes.

Q And they would use these strips of blanket then to wrap up the feet to protect them from the cold, is that correct?

A Yes.

Q Now when you came to Flossenburg in the fall of '43, could you give the court any idea of the approximate mortality rate that existed there in the camp from the time you got there until the first of the year, '44?

A Then I would have to be more precise and limited. For example, I would have to tell you about 2 or 3 month periods.

Q Will you please tell the court approximately what was the death rate during the month of November, 1943?

A If I would estimate that according to my best ability, then on one day it would be 3, 4, 5 or 6 people, but I also know of days when nobody died.

Q Again I ask you the average of the death rate for November, 1943.

A 4 or 5.

Q You mean the ratio?

A Then you could say 5 or 6.

Q In other words, 5 or 6 persons died on the average each day in Flossenburg in the month of November, 1943, is that correct?

A Yes, you could probably say that.

Q And approximately what was the average death rate per day in Flossenburg in the month of December, 1943?

A It would probably be about the same.

Q. All right, now tell the court if you will, what was the average daily death rate for the year of 1944?

PRESIDENT: Dr. Wacker, do you have something?

DR. WACKER: I think there is a misunderstanding here. The prosecution is constantly talking about the percentage of the mortality rate and the prisoner is talking about the people and he is giving the number for the period.

PROSECUTION: I am afraid that the Doctor has misunderstood the question. I said the average death rate. I didn't mention percent.

PRESIDENT: I don't believe, Dr. Wacker, there has been a misunderstanding of the witness. The court will be glad to hear from you later. Go ahead.

A I see through the objection of Dr. Wacker that I did say that a little wrong. I would like to change that from 5 or 6 to 4 or 5. In January or February it was considerable more. It would be 6 or 7 people per day.

Q Well can you, instead of taking each month, give the court the approximate average daily death rate for the year of 1944 in Flossenburg?

A The great mortality rate in Flossenburg began in October, '44.

Q Can you give the court, please, what the average daily death rate was for the year of 1944? I am not asking about any particular month, but the average throughout the entire year, daily average.

A I can't give you a yes or no answer to that. It is very hard to say. In the summer there were very few deaths because the large numbers of dead people weren't arriving from the outside. In October the number increased and from that time onward, I could give a more precise answer.

Q All right, give the court your more precise answer, if you will?

A In October, there often were 15 or 16 a day dead.

Q And in November of '44?

A The number got even bigger. It could have been 22, 23 or 25 a day. Would you allow me, Mr. Prosecutor, to add something in this respect?

Q Go ahead.

A All these people who returned from outside camps and were marked as incapable of working when they came back, they were marked as dead on the records in Flossenburg. In November, '44, it was the worst. All these people who died of fleck typhus in Hersbruck went to Flossenburg then. And Leitmeritz was a bad outside camp. You could say that every week 20 or 23 people would come from Leitmeritz.

Q Now Mathoi, when these people you say were brought back from outside camps when they were no longer able to work and were listed as dead, were they put in blocks 21, 22, 23 and 24?

A They were first of all bathed in the bath and then they

received fresh clothing, fresh underwear and came to the blocks, but before the people went to the blocks, the ones who were seriously ill were picked out and sent to the hospital. The doctor wanted to examine them immediately.

Q Well, now the people who were not able to work were put in blocks 21, 22, 23 and 24 is that not correct?

A There were also people who weren't able or capable of working in other blocks.

Q Now it is true that these people who were not able to work who likewise were listed as dead, they were put in blocks 21, 22, 23 and 24, were they not?

A Yes.

Q And is it not a fact that the death rate was higher in those four blocks than in any other blocks of the camp?

A Yes, of course.

Q And isn't it a further fact that the people in those blocks, 21, 22, 23 and 24, did not receive the same ration that the prisoners who occupied the other blocks received?

A They got the same rations.

Q Did they get the same quantity?

A I wouldn't know that they didn't receive their full rations.

Q Do you know whether or not they got the same quantity that the other prisoners received?

A These prisoners got their food somewhat earlier but the quantity was the same because the kettles had to be emptied. There were not enough kettles in the camp and they couldn't distribute the food at the same time.

Q Was it not a fact that these prisoners were classified as non-working prisoners?

A Yes, they classified these prisoners as incapable of working.

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Q And isn't it a further fact, Mathoi, that those prisoners who were able to work received a different ration than those prisoners who were unable to work?

A Yes, these people didn't get any breakfast because they didn't work.

Q So that they did in fact then receive only two meals a day, is that correct?

A Yes, but you couldn't regard what you got in the morning as a meal.

Q Well, what was the hour--the first planned time that these prisoners in blocks 21, 22, 23 and 24 ate?

A They usually got it at 10:30 in the morning and at 4:30 they got their bread, their portion and their coffee.

Q And that is all they got per day, is that correct?

A In the morning they got coffee, but you couldn't call it coffee.

Q While you were capo in the hospital, Mathoi, approximately how many post-mortems were made there on the prisoners?

A I made 30 all myself, for sure.

Q Well, who else was making them besides yourself?

A A Pole they called Sueffel, I don't know his last name anymore.

Q I would like to have the number of people that were making the post-mortems themselves.

A 2 or 3 besides me for sure.

Q Well, did they make as many post-mortems or less than you did?

A The others performed more than I did.

(Mathoi - Cross)

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Q Well, did they make as many post-mortems or less than you did?

A The others performed more than I did.

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Q And in your judgment Mathoi, approximately how many post-mortems were performed by these other men there in the hospital?

A There were post-mortems carried out by people I didn't know at all. Everybody had a post-mortem who died from meningitis, that is, inflammation of the cerebral membrane.

Q Well, can you still give the court any idea as to the number of post-mortems that were performed by these other attendants?

A Together they perhaps carried out 60, twice as many as I did.

Q In other words, each one of them carried out 60 or together they carried out 60?

A Altogether.

Q So that there were a total then of 90 post-mortems which were performed while you were hospital capo is that correct?

A Yes, you could say that.

Q And approximately how many of these were post-mortems for meningitis?

A 20 for sure. Also these people had a post-mortem performed on them who died from drinking menthol alcohol.

Q And approximately how many were there of those?

A Just a second, I can tell you exactly--6 or 7.

Q And the rest of them were those who had died of unnatural causes, is that correct?

A Yes, either because an accident occurred or they were shot to death. And those people who died from gangrene which set in because of infection through duraluminum--those people were also given a post-mortem.

Q Well, that wasn't considered to be unnatural, was it?

A No, all those who died an unnatural death were given a

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A That could have been also around 20.

Q And approximately how many post-mortems were performed on those who had been beaten to death?

A I only know of two, and in the one case I wasn't even capo of the hospital then. I was still camp eldest.

Q Well, how many were performed during the time you were hospital capo?

A One.

Q Now the only medical training you had received was that which you had while you were a prisoner in Dachau, is that not true?

A In Dachau and in Auschwitz. In Auschwitz I was with three Polish professors, and one of them was the most famous court physician in Poland, Professor Dr. Hans Olbrische.

Q Now do you know of your knowledge approximately how many post-mortems were performed in the year 1945?

A No, because at that time I had no access to the hospital as it was forbidden to me. I never let myself be seen there because fleck typhus was raging and I was afraid of fleck typhus.

(Mathol - Gross)

post-mortem but also a number of people were given a post-mortem who had not died an unnatural death and didn't have to be dissected.

Q And approximately how many post-mortems were performed on those who died from accident?

A I can't give you an exact number on that.

Q Have you any judgment about that?

A I would estimate certainly 20 or 25.

Q And where did these accidents occur?

A Usually in the quarry and in the armament works.

Q And approximately how many post-mortems were performed on those who had been shot to death?

Q Well do you have any judgment as to the number of post-mortems performed at the time you were camp eldest?

A I don't know that because I didn't go into the dissection room as it was still in the crematorium and I didn't go in there. I know of one case where a man was dissected. He was a German and had been shot to death by Capt. Fritsch with a pistol in the camp on Christmas eve. Post-mortems were also performed on people who had been publicly executed in the roll call square.

Q And that was considered to be an unnatural death, is that correct?

A Yes, of course.

Q And approximately how many people were executed during the time that you were capo in the hospital?

A As I said before, that could be between 80 or 90.

Q That is how many were executed?

A No, that number includes all those that I have described up to this time.

Q Well then, answer the question please. How many were executed at the time you were hospital capo?

A May I say there, including those people who were executed in the arrest building and also on the roll call square?

Q Approximately how many were executed during the time you were hospital capo?

A I would estimate 200 for sure. That was from April until the 11th of July when I was relieved of my duties.

Q Now who was it that put the noose around the prisoner's neck when the prisoner was hanged?

A That was usually blockeldest Brodels. He was an SS Lieutenant and he voluntarily reported for this duty.

PRESIDENT: Dr. Wacker?

DR. WACKER: S. A. Lieutenant.

Q Was he a prisoner at that time?

A Yes, a homosexual.

Q How did you ever put the rope around the prisoner's neck to be hanged?

A No.

Q Never at any time?

A No.

Q Is it not a fact that you did beat prisoners in the clerk's office at the time you were camp eldest?

A Yes, of course. I had to do it. I was given orders to do it when I was camp eldest. The SS captain was there.

Q And what instrument did you use to beat the prisoners at that time?

A With a whip.

Q Will you describe that whip to the court please?

A Yes, it was approximately 80 centimeters long and was 2 or 2½ centimeters thick at the butt where you had the handle.

Q And how thick was it at the other end?

A 1½ centimeters.

Q And out of what material was it made, Mathoi?

A Leather.

Q And how frequently did you beat the prisoners there in the clerk's office?

A 5 or 6 times and I tried to get out of it as much as I could. I went over and sat in block 1.

Q Were there any reports made to the SS while you were camp eldest?

A Yes, but not for me.

MR. MC KAY: The question is objected to as going beyond the scope of direct examination. This witness has made no comment or statement with regard to Hauser during his direct examination.

PROSECUTION: And he would not have to make any statement with respect to Hauser or with respect to Jakubith in order for that to be a proper question. I have asked him to explain in the course of conduct which has been described to him.

PRESIDENT: Mr. Mc Kay, your objection is based on reference to Hauser in particular, is that correct?

MR. MC KAY: Yes sir.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1120 hours.)

(Whereupon the court was opened at 1135 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Colonel Wilson and Major Oeding who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski and Oswald who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of defense counsel, Mr. Mc Kay, is sustained.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

(Mathoi - Cross)

Q Well, didn't you state that those reports would have to go through you as camp oldest?

A Yes, of course, but Brodeis was one of these people who never bothered with me at all and didn't even consider me although the report should have gone by way of me. They should have been written up in the clerk's office. The block leaders would bring them to the clerk's office. They had written down the report in draft with pencil on a piece of paper and then the reports were supposed to be formally typed up and I tore up every one of these reports which I could get my hands on.

Q Did they have to contain your signature before they could be sent forward to the commander of the protective custody camp?

A No, the one who made the report put his signature on it.

Q And then it was your duty to take it into the protective custody leader, is that correct?

A I never sent a report on, but that was what I was supposed to do.

Q After the time that you had been relieved of camp oldest, were reports made against the prisoners?

A Yes, of course.

Q And did you hear that prior to the time that you took over the position of camp oldest that reports were made against prisoners?

A Yes, of course, that was the way it was as a rule.

Q Now you testified that when you caught prisoners stealing packages you beat them up with a rubber hose, is that correct?

A Yes.

Q Well, will you explain to the court why it was that you didn't give the prisoners merely slaps with the hand as Hauser and Jakubith did instead of beating them with a rubber hose?

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KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

(Mathoi - Cross)

CROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continued):

Q Well, explain to the court, if you please, Nathai, why it was that you didn't give slaps of the hand instead of beating them with a rubber hose.

A Because too many people observed that. If I had merely slapped them, I would have been reported and the prisoner would have been reported and the prisoner would have had the disadvantage of being hanged by the neck. If I gave the prisoner 5 or 6 blows across the back, then the case is closed. I must emphasize the difference here between rubber hose and rubber club. A rubber hose is something hollow and a rubber club is something solid which the police use and which we did not have in the camp. We never had it.

Q Now you testified that you would have been reported and the prisoner would have been reported if you would have merely given slaps by the hand is that true throughout the camp?

A Yes, it was like this. There were spies in the camp and they would run over and report me and the prisoner as well.

Q In other words, you would have been reported for giving a slap by the hand, but not reported for giving a beating with a rubber hose, is that correct?

A Yes, if they knew that the camp oldest beat with a rubber hose, they didn't even bother to take notice.

Q And that is the reason why you beat with a rubber hose instead of your hand, is that correct?

A Yes.

Q But it was forbidden was it not for capos and camp oldests to beat prisoners under any conditions?

(Nathai - Cross)

and the roll call leader. It wasn't the same thing when a prisoner beat another as when an SS beat a prisoner. Actually according to the books, a prisoner wasn't allowed to beat another prisoner and besides that I never told any prisoner why I was beating the other prisoner. I had to be careful because that prisoner would go and report it and the prisoner whom I had beaten would be reported and I, as well, would be punished.

Q In other words, many prisoners saw you beating other prisoners with a rubber hose?

A Yes.

Q And isn't that the reason why you were hated throughout the camp?

A No, that wasn't the reason. On the contrary, people whom I had never spoken to would tell me that was a fine gesture of yours that you never reported prisoners.

Q It is a fine gesture of yours that you beat people with a rubber hose instead of slapping them on the ears, is that correct?

(Mathei - Cross)

A Yes, it was legally forbidden so that the people who run the camp could punish the prisoner's beater but since he was a fellow prisoner of mine, how could I report him. Then I would be the right-hand man of the SS if I did that.

Q Well, is it not strange that you would be reported for not beating a prisoner enough?

A No, if the SS or a Blockleader saw that, he would report me anyway. He would say why did you beat him at all.

Q So that the only reports that would be made against you then for slapping with the hand would come from the prisoner, is that correct?

A Yes, also the SS carried news of that to Captain Fritsch

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MR. MO KAY: The question is objected to as being argumentative in form.

PROSECUTION: Nothing argumentative about that, may it please the court.

PRESIDENT: Objection overruled.

A I didn't understand the question.

(Whereupon the interpreter repeated the question.)

A No, they didn't say that either, of course. If I had not beaten the prisoner, the prisoner and I would have been reported. I would have received blows, the prisoner would have ended up in the arrest building and the situation would have been just as bad as before and he would still have been punished.

Q How you stood at the gate each day did you not while you were camp oldest and kicked the prisoners as they came by?

A I told the court yesterday that if I hadn't stood there, Captain Fritsch would have made me come. It was my orders to stand there, and if a prisoner didn't march in step or didn't keep his hands at his side or didn't take off his cap then first of all the caps would receive slaps from Fritsch and I also, and the prisoner in the bargain, and for that reason Fritsch kept insisting that I kick the prisoners in the rear.

Q How were these slaps or were these blows with a rubber hose?

A On such occasions I didn't strike with the hand at all. I merely gave them a kick in the rear because Fritsch had told me to do so.

Q And on these occasions when you slapped with the hand, is it not a fact that you could have been reported?

A Yes, Fritzsch was just waiting for that. He was just waiting to hear that I disfigured a prisoner and he would want to rub me out. It was a deadly system to play off one prisoner against the other.

Q And that is what was done in Flossenburg is that not correct?

A I can't say anything different.

Q Now you refused to obey the orders of the SS and you received only a kick in the rear, is that not correct?

A Yes.

Q And it is also true is it not that you refused to obey the orders of the SS lieutenant colonel who was in command of the camp and you only received a slap in the face?

A Yes, with his fist and not once, three times, and he constantly threatened he would send me to Mauthausen; and for that

reason he didn't let my brother and sister visit me in camp because he was afraid I would squeal on him.

Q How many dentists did they have in the hospital at the time you were there?

A I only know of one prisoner dentist, that is, only one dentist for the prisoners.

Q And approximately how many prisoners did they have in the camp at that time?

A What period of time is the prosecutor talking about?

Q The period of time that they only had one dentist for the prisoners.

A There was, as long as I know, only one dentist for the prisoners.

in the hospital available to prisoners, did you not?

A Yes.

Q And based on your observations, give the court your best judgment as to the number of beds they had there in the hospital.

A In the hospital, without counting the convalescent ward, I would say 180 to 200.

Q And approximately how many did they have in the convalescent ward?

A Convalescent ward—that was only one block, about 16. 150 to 200. It could have been 200 because in the lounge in block 16 there were also some beds set up.

Q And approximately how many prisoners were in the hospital that is, the greatest number that was in the hospital during the time that you were hospital capo?

A 450 or 460.

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Q And what was the greatest number of prisoners that were there in Flossenburg during the time that you were there?

A 12 to 13 thousand, but not including the outside camp. I am only talking about the main camp of Flossenburg itself.

Q Now, approximately how many beds did they have in the hospital at the time you were hospital camp?

A I can't tell you that.

Q Well, you were in the hospital every day were you not?

A Yes of course.

Q And you went from ward to ward looking after the patients did you not?

A Yes.

Q And you had an opportunity to observe the beds that were

Q And approximately what was the greatest number in the convalescent ward during the time you were ther?

A Including the convalescent ward, I have recorded 700 in the morning.

Q And did these prisoners who were in the convalescent ward have the same clothing that was issued to prisoners who were worked on the outside?

A Yes, of course, when they were released, they got the same clothing.

Q While they were in the convalescent ward, tell the court what clothing those prisoners had.

A Underdrawers and shirts. All the other things went to the disinfection room and to the laundry.

Q How many patients were there, Mathoi, in that section of the hospital which was reserved for the Germans?

A There were only 15 beds there where the Germans reported.

Q And approximately how many Germans occupied each one of those beds?

A When the space was full there would be 15 patients in it. No more, and if this hall was full and more patients wanted to get into it they would have to go into the other rooms with the other people. I saw three men lying on two beds pushed together.

Q Now isn't it a fact that when you had difficulty in getting these prisoners into line when they were reporting to the hospital, you would have to beat them with a rubber hose?

A No.

Q What did you beat them with?

A Those who had to line up according to order, I never beat them. I only beat those people who forced their way into the halls

and had lice in their clothing, and those people who went into the laundry or the kitchen to steal food.

Q And to what extent did you beat those prisoners?

A I gave them a slap on the ear.

Q And were you not reported for that?

A No.

Q Now you testified with respect to being unable to throw a man out of the front windows on account of the bars. Will you describe to the court what the windows were in the rear of the hospital?

A (Indicating) In the rear of the hospital, it was completely impossible to throw anyone out of the window, it was so narrow.

Q It wasn't narrow enough to keep people out who came in to steal food was it?

A Yes, but they climbed into the window.

Q While you were in the hospital, is it not a fact that you were Golts' superior?

A Officially I was supposed to have been that but Golts never let me tell him anything.

Q Well, you were the senior among the prisoners in the hospital, were you not?

A Yes, of course officially I was supposed to be that.

Q And that was true also with respect to Former, wasn't it? Soemer

A Former was not my subordinate. Former was relieved of Soemer Soemer his duties at the beginning of March, '44. At that time I wasn't in the hospital at all.

Q Now you testified that because you failed to carry out their orders, the commander of the camp and Kuehler, you were removed from the hospital as cape in July 1944, is that correct?

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A Not for that reason alone, but especially because of this incident on the special building which I described for the court.

Q And as punishment for that, you were relieved of your duties of that as capo and sent to the quarry, is that correct?

A Yes, Knobler came every day with the commander into the hospital and sniffed around. Actually, he had no business there and he was forbidden to enter the hospital.

Q Now was the man who reported you, the same Wolf who is sitting over in the dock?

A Yes.

Q Jakubith was the capo in the detail in the quarry at the time you were sent there, is that not so?

A Yes.

Q Now you testified that Paul Former and Golts hated you, is it not a fact that the reason why you are mad at Paul Former is because he refused to testify in your behalf in this court?

A No, I don't have any feeling of hatred at all in regard to a former prisoner, but it is my opinion that when you sit in a glass house, you shouldn't throw stones.

Q Isn't it also true that you requested Former to talk in your behalf?

A I said to him, won't you come and testify in my behalf. I can't actually invite him to come. It was a question, not a request.

(Statement of Karl Mathoi was marked Prosecution Exhibit No. 69 for identification.)

Q Mathoi, I hand you a document which has been marked Prosecution Exhibit No. 69 for identification and ask you to state whether or not it is your own handwriting.

A Yes.

MR. MC KAY: The defense objects to the prosecution attempting to have any paper identified which may go into his relation with counsel upon request for a particular prisoner to testify on his behalf. The accused has the privilege of making any statement either in writing or orally with their counsel which is necessary to the conduct of their defense and such statements are confidential communications which cannot be revealed in court in any way, shape or form except under proper circumstances which are outlined in the manual for military government courts.

PROSECUTION: Do I understand, may it please the court, that this is counsel's writing, or was it written at counsel's request?

MR. MC KAY: If it please the court, I have never even seen the thing, at least at the time when the prosecution is seeking to go into matters which may go into privileged communication. I think out of courtesy, the prosecution should be required at least to submit it to the defense counsel to determine whether it is a privileged communication or not.

PROSECUTION: All right.

PRESIDENT: Mr. Prosecuter, the court at this time would like to know the particular communication, if it did pass through defense hands, or not.

PROSECUTION: I certainly hope that it did not, may it please the court. As a matter of fact, it is not incumbent on me to show that at all what he is talking about. A privileged communication is a communication between the attorney and client and hasn't got one thing in the world to do with the communication between the client and someone else, eventually or now, even though it be

written at his behest. I hope it's not.

PRESIDENT: What the court would like to know, Mr. Prosecutor, is whether or not this communication was directly turned over to one of the defense counsel in the first place, either Mr. Mc Kay or somebody else on the defense counsel.

PROSECUTION: I have absolutely no knowledge, may it please the court, of how this communication got into the hands of the person to whom it was sent. All I know is that it is a letter that has been signed by Matsui, which he stated was his own handwriting.

PRESIDENT: Mr. Mc Kay, anything further?

MR. MC KAY: Well, I'd like to at least see the paper to see if it did pass through my hands. I don't know what he has got from kingdom come.

PRESIDENT: Mr. Mc Kay, the court will give you an opportunity to check this during the noon recess, is that satisfactory to the prosecution?

PROSECUTION: I would love to have this completed right now before we have any further interruptions on it because it won't take but two seconds to ascertain whether or not he had it before, and I will have completed my entire examination.

MR. MC KAY: (Observing the paper) If it please the court, I have never seen this and it is not a privileged communication prior to this time.

PRESIDENT: The court understands, Mr. Mc Kay, that you have no objection.

MR. MC KAY: No.

QUESTIONS BY PROSECUTION (Continuing):

Q Will you read, please, to the court the matter contained

in Prosecution Exhibit No. 69 for identification?

A Yes. (Reading) "Reading all material and testimony here which is said in favor of prisoners here in the dock, isn't in favor of all prisoners in the dock because there will be a second Flossenburg case. Personal feelings must be forgotten. All charges which are leveled against us here in the dock, they can read any way they want but 80 percent of it consists of lies and fabrication of the prosecution. We must fight together against the lies and the common design. It must be repeated constantly that it was not possible for a prisoner to beat another without a severe punishment. We will not spare the SS now—those people who kept us for years in a concentration camp, because if the Bavarians had won the war, none of us would ever have gotten back into the native land. When you draw into consideration all we have in back of us, all we have gone through, people have their nerve to bring us here before court at all. Who shall we look after? Not the SS and not the Americans—the product of the capitalist system. Let's make storm against everything which is oppressing us today. All the means are holy for us condemned."

PROSECUTION: No further questions.

MR. MC KAY: At this time, the defense moves to strike any reference which has been made to this particular document which has been identified as Prosecution Exhibit 69 for identification for the reason that it is not shown that this statement was ever directed to Paul Talmer, nor is it shown that it has ever been directed to any former prisoner, and for the reason that there is no showing of how this particular document has been obtained by the prosecution, and for the further reason that as it now stands, it is irrelevant and immaterial to any issues in this case.

(Method - Cross)

PROSECUTION: Now, may it please the court, I think it is highly material and going to the credibility of this witness when he makes a statement (quoting) "All means are sacred for us condemned ones" and when he states "It is important to emphasize always again and again that an inmate could not beat to death another one without severest punishment." And further when he says only with the prisoners, never with the SS and Americans who are only representatives in the interests of their capitalist superiors," I think it would certainly go to the credibility of this witness as to what weight this court should give it and it is utterly material to whom it was directed so long as that man states that it is his own handwriting and his statement.

DEFENSE COUNSEL: I might say that my memory is of rather substantial difference with regard to the last sentence that was translated by the official translator here from the sentence read from the typewritten translation which the prosecution referred to and if it is, it might have some bearing on the materiality of the letter. Otherwise, I think the whole communication reflects nothing but the probably normal sentiments of a man on trial for a serious charge to the effect that he intends to defend himself and have witnesses defend him, more or less in the nature of an appeal to witnesses to come forward in his behalf, assuming it was directed to a witness, and as far as any reference to the Americans is concerned, this man's attitude--he is not on trial for his political beliefs which seem to be reflected in the last sentence.

PRESIDENT: Does the defense have any further remarks?

DEFENSE COUNSEL: Nothing further.

PROSECUTION: Nothing further.

PRESIDENT: The court will adjourn until 1:30 this afternoon.
(Whereupon the court adjourned at 1210 hours.)

(Mathei - Cross)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1345 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused. All of the accused are present with the exception of Buddensieg, Olschewski, Oswalt and Neye who are sick and whose interests are being taken care of by their counsel.

If there are any spectators in this courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The motion to strike on the part of defense counsel, Mr. Mac Kay, is sustained. The court does not feel, Mr. Prosecuter, that a proper foundation has been laid for this particular document.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINAT ON (CONTINUED)

QUESTIONS BY PROSECUTION:

Q When did you write this document marked Prosecution Exhibit No. 69 for identification, Mr. Mathoi?

A I don't know the exact day any more. I only knew that I wrote it in this waiting room where we were taken in the evening to confer with our defense counsels. One time Toermer was sitting there and I gave it to Toermer. I gave it to him.

Q Has Toermer testified in this case?

A Yes.

(Mathoi - Cross)

2ap

PROSECUTION: No further questions. I at this time reoffer -- no, I don't offer, may it please the court. The court has granted a motion to strike the statement that has been made. Now I don't want to go through the same procedure again may it please the court. It's not my time to present it as an exhibit. In other words, at this time, it has merely been marked for identification and would be offered may it please the court, when the prosecution resumes its time to present evidence, namely, in the rebuttal, after the defense has closed its case, but on the basis of the additional information that has been presented to the court, I will ask the court at this time to reconsider its former ruling and thereby prevent any repetition of the reading of the document.

PRESIDENT: Well, the court would like to know, Mr. Prosecutor, just when you desire to offer this particular document in evidence before the court.

PROSECUTION: It will be offered, may it please the court, when we resume of course the introduction of evidence, namely, in rebuttal. In other words, there are also exhibits nos. I believe 66, 67 and 68 have all been marked for identification and will be introduced when we resume the right to present evidence before the court for the consideration of the court.

PRESIDENT: Mr. Prosecutor, the court would like to know whether or not those additional exhibits you mentioned had been read to the court.

PROSECUTION: Honestly I have forgotten may it please the court, whether some of them have or have not.

PRESIDENT: The court would like to call your

(Mathoi - Cross)

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attention that this particular exhibit has been read to the court.

PROSECUTION: I believe some of the others have been read too. Just a second. I will consult. May it please the court, to shorten the entire matter.

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY PROSECUTION:

Q I hand you a document marked Prosecution Exhibit 69 for identification and ask you again to state whether or not that is a document made in your own handwriting.

MR. MAC KAY: The question is objected to. It's repetitious.

PRESIDENT: The court doesn't feel that that prosecure is necessary, Mr. Prosecutor. It isn't necessary, Mr. Prosecutor, to have this witness go through that whole procedure again. The objection of the defense counsel is sustained.

QUESTIONS BY PROSECUTION (CONTD)

Q Will you read it please, Mr. Mathoi.

MR. MAC KAY: That is objected to because it violates the best evide ce rule. The document itself is the best evidence.

PRESIDENT: Mr. Prosecutor, if you desire to put that exhibit up for evidence to come before the court at the present time, the court will give it consideration.

PROSECUTION: All right, Sir, I will offer it at this time may it please the court, as Prosecution Exhibit No. 69 in evidence.

MR. MAC KAY: The defense resists the offer of prosecution of its exhibit 69 for the following reason.

4sp

It seeks to be a document which is impeaching the testimony of this witness on the stand. However, it is not shown that this document was in fact received and held in the possession of the person to whom it was directed, and for the further reason that this statement is not shown to have been made voluntarily;for the further reason that a proper foundation has still not been laid.

PRESIDENT: Reporter, I wish you would repeat that objection please.

(Whereupon the objection was read by the reporter.)

PRESIDENT: The objection of the defense counsel Mr. Mac Kay is overruled. Mr. Prosecutor, is there a translation of this particular document?

PROSECUTION: Sir, we will get one and present it in proper form. As I stated to the court, I didn't intend to introduce that document in that form at this time, and at the time that I intended to introduce it, I also would have accompanied it with a sworn translation. I can have that made by one of the interpreters working here and bring him in to testify as to the authenticity of the translation and submit it to the court. I have a translation here may it please the court, but I think it would be better to have it done in the regular way by giving it to an interpreter who can testify to the correctness of the translation.

PRESIDENT: The court understands, Mr. Mac Kay when you originally had the opportunity to check this document over, you had the translation in hand. Was that not true?

MR. MAC KAY: May it please the court, I had

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this typewritten sheet which the Colonel has in his hand.

PROSECUTION: I will offer that may it please the court. I have no objection to offering that at all.

PRESIDENT: The reason that the court is going into this matter is due to the fact that when this matter of the document first came up for identification, there was no objection on the part of the defense and that action was taken by the defense after you had had a chance to observe the document in question.

MR. MAC KAY: That is right.

PRESIDENT: And you at that particular time were able to check over a translated copy as the court understands.

MR. MAC KAY: May it please the court, I checked this to familiarize myself with the terms of that because I do not understand Germa n so that I could determine whether any such statement had ever been made to me.

PRESIDENT: The court will receive Prosecution Exhibit No. 69 in evidence and give it such weight as the court sees fit, with the understanding that a proper translation will be made of this particular exhibit no. 69 and placed in the record.

PROSECUTION: Yes, Sir, as Prosecution Exhibit No. 69-A.

(The document heretofore marked Prosecution Exhibit No. 69 for identification was received in evidence as Prosecution Exhibit No. 69, is attached hereto, and made a part of the record.)

PROSECUTION: May it please the court, if we may have the original copy, we will have a translation made immediately.

No further questions.

6sp

PRESIDENT: Redirect, Mr. Mac Kay.

REDIRECT EXAMINATION

QUESTIONS BY MR. MAC KAY:

Q Mr. Mathoi, when you spoke of the deaths in camp Flossenburg, were you referring only to the main camp or did you have in mind the outcamps as well?

A Everything that was in the outcamps and in the main camp itself.

Q Will you explain to the court if you know just what procedure was followed to report deaths from outcamps to Flossenburg?

A They were brought into the main camp with the ambulance.

Q Did you as hospital capo have access to those reports?

A Of course. I would like to emphasize that no dead came from Leitmeritz to Flossenburg, only the death reports.

Q You stated that the prisoners who lived in block 21, 22, 23 and 24 didn't get any breakfast. What did you mean when you say they didn't get any breakfast, but you said that they did get coffee?

A Everybody who was in the camp, no matter who, got coffee in the morning, and at noon everybody got a liter of food, one liter of food.

Q Well now, what did you mean when you said that these prisoners who lived in these blocks 21, 22, 23 and 24 didn't get breakfast?

A All those prisoners who worked got a breakfast in the morning except for those people whom I mentioned in the direct examination, block clerks, block eldest,

7sp camp eldest and capos in the hospital and clerks in the hospital. They didn't get any breakfast. Captain Kirsammer, the chief of the administration arranged that order.

Q At what hour was that breakfast to which you refer usually served to the prisoners?

A The breakfast for the people inside the camp was given out towards 8:30 or toward 9 o'clock, and for the people who worked in the quarry and department 2004, they got their breakfast by means of a truck. It was carried out to them.

Q Now in the process of your examination you spoke of so-called stool pidgeons who were planted in the camp to make reports on you. Did the reports that those particular individuals make pass through your hands as camp eldest?

A No, of course not because if they had, I would have torn them up. As soon as I became camp eldest, I said to all the block eldests, "We will have no reports made", and in the evening I had the capos fall in behind the kitchen and I said the same thing to them. If reports were made on the details outside the camp, I couldn't do anything about them, and if reports were made inside the camp without my knowing about it, naturally I couldn't do anything about them either, but it was a principle of mine not to pass any reports on. But the people in the camp who made reports gave them immediately to the rollcall leader and I couldn't say to the man -- please give me the reports back.

Q You stated that there were post mortems performed in cases of accident. Do you recall whether any

sp of those post mortems involved prisoners coming from the stone quarry?

A Yes. For instance, I remember one case two or three men were injured by the chain on a crane. The crane was lifting stones and the individual parts of the chain - each one was as long as a man's arm and these fragments of the chain flew off and crushed the men.

Q Do you know what particular quarry these men were working in at the time of this accident?

A I believe it was block one.

Q In what year were those?

A '44.

Q You stated on cross examination that you beat Russian prisoners who had stolen packages with a rubber hose. Will you tell ~~that~~ the court when that particular incident occurred?

A That wasn't a particular incident. That consisted of a number of incidents. That often happened. I know of some people and they were Germans not foreigners who were hanged because they merely stole a pair of trousers. If I had reported one of these people and told the facts that in a black-out he had attacked one of his comrades and stolen his package away from him, he certainly would have come to the gallows. If I hadn't made any report and hadn't beaten a prisoner either, they would have come and said, "The camp eldest saw this incident and why didn't he make any report?" The man gets away with impunity.

Q Now, Mr. Mathoi, you stated that this occurred during black-out. Did you ever use a rubber hose for administering beatings at any other time other than during black-out?

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PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. MAC KAY:

Q Well, Mr. Mathoi, will you explain to the court when you followed the practice of carrying a rubber hose with you.

A Only when there were mass gatherings and words didn't have any effect any more.

Q Can you explain to the court what particular time of the day this would be.

A That was in the evening.

Q Will you explain to the court what the condition of the camp was after curfew in the evening with regard to darkness.

A In the wintertime it was already dark at 6:30 or 7 o'clock in the evening and then if an air raid occurred, all lights had to be put out. These people were attacked at the corner of block one. Everybody had to pass this corner in block one to get his packages except those people who lived in block 20 and they immediately shouted, "Camp eldest, camp eldest, come and help me. I am being attacked". I had to go over there because I was over in the post office and I helped distribute the packages myself.

Q Mr. Mathoi, you said that officially you were supposed to be superior to Goltz. What did you mean when you made that statement?

A I merely wanted to say that it was useless for me to talk to Goltz. I didn't have anything to say that he had such a power there that it would have been

10sp

ridiculous for me to tell him not to do something or to do something, and when Goltz said, "We are just going to take Frenchmen in the hospital", I said, "You can't do that, there are a lot of other people who want to get into the hospital and you can't merely look after the Frenchmen". But the result of my talk was that the people still were taken in as he wished and when I told him how these French doctors behaved, then he laughed at me. I often said to these French doctors, "You have got to take into consideration that there are other people here beside Frenchmen and you have to treat them all the same", and they laughed at me. It was in vain.

I already mentioned when I got to the hospital whenever I wanted to make a disinfection bandage for blood poisoning, I couldn't find one drop of alcohol and shortly after I flew out of the hospital, the Frenchmen celebrated their national holiday -- I believe it's the 14th of July -- and on this occasion they drank alcohol.

Mr. Mathoi, why did you never communicate to me the fact that you had written this letter Prosecution Exhibit No. 697

PROSECUTION: I object to that may it please the court on the ground it's immaterial, irrelevant to the issues in this case and actually goes into the question of communication between attorney and client. Whether or not he informed his counsel that he had written that letter is immaterial to the issues in this case and immaterial to the weight that this court can give this witness' testimony based upon the letter that he has written and why he didn't inform Mr. Mac Kay of that fact is utterly immaterial and irrelevant.

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MR. MAC KAY: I will withdraw the question.

PRESIDENT: Proceed.

MR. MAC KAY: No further redirect examination.

THE ACCUSED: I beg the court to be allowed to make an explanation with regard to this letter.

PRESIDENT: The court will give you an opportunity in full due course of time to make that explanation, Mathoi. Recross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY PRESIDENT:

Q Mathoi, you testified as to certain post mortem examinations that you had made -- 30 in number approximately.

A Yes.

Q Did you have a specific order to perform those post mortem operations?

A Yes.

Q Who gave you that order?

A Part of the time Dr. Schmitz and sometimes Dr. Schnabel.

Q And the court understands that both Dr. Schnabel and Dr. Schmitz at two different times gave you orders to perform those post mortem operations, is that correct?

A Yes.

Q Had you ever had a course in anatonomy, Mathoi?

A I learned that in Dachau with the Polish physician Dr. Garska.

Q How long a course did you have with this

12sp

particular Polish doctor you are talking about.

A He was also a prisoner, this doctor, but we were both instructed by the SS Dr. at the same time.

Q You mean you were instructed in performing autopsies through the medium of post mortem examination, is that correct?

A Yes.

Q Well, how much experience did you have during the course of that study of that experience?

A I learned enough so that in 25 minutes I could open up the thorax, the chest of any corpse and close it up again and included in that is taking out lungs and the liver, kidneys, spleen, take out the gall bladder, the liver, and each branch of the lung had to be dissected into three sections in order to see whether there were any traces of tuberculosis. The right and left chambers of the heart had to be cut open and the liver was also dissected into three parts. The kidneys were taken out of their net and all these organs had to be laid out on the dissection table in order to be inspected, and a qualified doctor made the medical diagnosis of these organs.

Q But had you ever had a course in medical school, Mathoi?

A No. I did voluntary service in the medic column of the Red Cross which was set up in all the cities. I was a member of the old union medical union and therefore I became immediately a member of the first aid station. Beside that I had an old school comrade whose name was Wertmann who placed many medical books at my disposal and taught me a great deal.

(Mathoi - Court)

13sp

Q Well, how many cases of dissecting did you observe or participate in before you started doing anything like that on your own?

A At least 20 for sure.

Q Well now, these 30 post mortem cases that you testified you handled, was that done under the supervision of any medical officer?

A Of course SS officer doctors.

Q You mean that that SS doctor was right there during all this dissecting?

A Yes, when I was learning, yes, and also prisoner physicians.

Q Well then, later on the court understands you did this on your own by yourself not under supervision, is that correct?

A Yes, in Flossenburg, but once I had taken out all these organs in the post mortem and put them out on the table, a doctor would investigate them and make a diagnosis.

Q And you contend, Mathoi, that the matter of these post mortems was performed by you upon orders of certain specified doctors, is that correct?

A Yes.

Q Now, you further testified, Mathoi, that a certain Russian who had stolen some bread was hit by you and in turn this Russian fell and struck his head.

A Yes.

Q That he was take n to the hospital and that he was released from the hospital by noon of that day or the next day?

A He was brought into the dispensary. The hair

14p

in back of the head around the wound was cut off. The wound was rinsed off and bandaged and then he was released.

Q How did you hit him on that particular occasion, this particular Russian?

A With the back of the hand.

Q With the back of the hand?

A Yes.

Q Where did you hit him?

A Here on his cheek. The bucket was standing behind him. He was standing with a poor posture. I came around the corner very quickly. I saw that he had the bread in his hand. I hit him on the cheek and he fell down over the bucket.

Q Did anybody else see that particular Russian after he left the hospital?

A Yes, every prisoner saw him -- at least those who were standing around down there.

Q Well, can you give the court the names of any particular people that actually saw that Russian after he left the hospital?

A I can't do that. I can't even give you the name of the Russian and if I had beaten him to death, I wouldn't be here any more today.

Q Well, did you actually see that Russian leave the hospital, Mathoi?

A Of course. I was very interested personally in what happened to him.

Q What particular doctor handled that case in the hospital?

A I believe it was this Janus Janicki.

(Mathoi - Court)

15sp

Q Was he a Polish doctor?

A That wasn't a doctor. That was a male nurse.

Q When was the last time you saw that particular individual that you referred to?

A At any rate, I saw him then when he was released with plaster on the back of his head.

Q What the court is referring to is this male nurse that you said handled this particular case. When is the last time you saw this particular male nurse?

A In February of last year.

Q Where was he at that time?

A He was still in the dispensary.

Q You are referring to the dispensary at Flossenburg?

A Yes.

Q Now you further testified that Kamenek stole bread and you slapped him as a result of that.

A Yes. He didn't steal people's bread. Only once. He did it twice.

Q Do you want to tell the court anything more about that particular incident?

A Yes. The people in the woodyard came to me and said, "Why aren't we getting any breakfast today", and I said to them, "You are getting breakfast just like anyone else" because I knew that the woodyard always got their breakfast. That was the way it was done and I asked Kamenek in the presence of his prisoners, "Why didn't you give your prisoners any breakfast?" and Kamenek told me that he hadn't received any. I went to the kitchen with Kamenek and determined that Kamenek had got his food for his prisoners. Then there were two

(Mathol - Court)

(Mathol - Court)

16sp

possibilities. Either I would report him or else I would give him a few slaps in the ear. If I hadn't given him any slaps on the ear and not reported him either, then the prisoners would have reported me and said that I was supporting Kamenek. One week later the people came back to me again and said that Kamenek was taking their bread away for the second time. Of course I was enraged. If I would see to it that you were reported, then you would be relieved of your duties immediately. I gave him a few slaps on the ear and then the case was closed because I saw to it that the prisoners got their bread. It didn't always occur and only three or four positions were involved. It wasn't done on a wholesale scale, but I couldn't always look after it because they would have thrown me out of the kitchen.

Q Did you have any further trouble from Kamenek?

A No.

Q Was that the same man Kamenek who appeared as a prosecution witness in this court?

A Yes. When I was in the kitchen I had to lie and say that other prisoners had stolen Kamenek's bread from his cardboard boxes.

Q Now, you have testified that during the time you were camp eldest you beat prisoners five or six times.

A Yes.

Q What did you mean by that term, "beat"?

A If it was a big incident, for instance, where there was wholesale black marketing going on, where people were cheating each other or where the welfare of the whole personnel was damaged or when a package was stolen, then I would give five or six blows with a rubber hose across the back. Because the prisoner didn't

(Mathot - Court)

17sp

stand there and take those blows, he took off.

Q You say that only occurred five or six times, Mathoi?

A No, it took place more often than that for sure

Q You are referring to occasions when you used a rubber hose, is that right, now?

A Yes.

In other words, it took place more than five or six times, is that correct?

A No, the incidents with the rubber hose -- what I meant to say was I gave him five or six blows with the rubber hose, but such an incident didn't take place very often.

Q What the court wants to find out further as to whether or not those beatings took place in the clerk's office or just where did they take place?

A Earlier in the arrest building I refused to take part and I got blows myself and then later on in the clerk's office. I never knew that the Prince of Hesse had made a complaint about that and that was the reason it was changed over to the clerk's office. I didn't know that until I found out about it here.

Q Well, how many times did you use that rubber hose on any particular individuals in the clerk's office? In other words, how many individuals did you beat up in the clerk's office with that rubber hose?

A Without an order nobody.

Q Well, with an order then.

A Five or six times also.

Q And who gave you those particular orders that

18sp you are referring to?

A Baumgartner, Fritsch and the rollcall leader. I only did that when these people came into the clerk's office but I saw them and I couldn't get out of the clerk's office again because when I saw them, I would run over to block one into the prisoner's office.

Q Then the court understands that these beatings you performed in the clerk's office were done by orders from somebody higher up than you. Is that what you mean?

A Yes, of course. If I didn't do it, then I would get blows and someone else would still have to do it.

Q Now, referring to these times when you used that rubber hose outside of the clerk's office, you didn't have any orders at that time, did you?

A No.

Q Now, you have testified about turning this pencil communication over to Toermer. The court is referring to Prosecution Exhibit No. 69. When did that take place, Mathoi?

A I can't remember exactly. I can't tell you exactly. It was shortly before he appeared here in the courtroom.

Q You turned that communication over directly to Toermer, did you?

A Yes.

Q Did he receive it?

A Yes, of course he took it.

Q Did he read it in your presence?

A I don't believe so. I didn't see him reading it.

(Mathoi - Court)

19sp

Q Did that take place before the trial ever started or not?

A No, during the trial.

Q Well, where was Toerrner when you turned that over to him?

A In the waiting room where we were always led to whenever we were waiting for our defense counsels. It's impossible to speak.

Did you have an opportunity to converse with Toerrner at that time?

A No, I already said it was impossible to speak to anyone.

Q What were your previous relations with Toerrner?

A I never had any contacts with Toerrner. I always had to step in against Toerrner.

Q Well, just what was Toerrner's status in Flossenburg?

A He was first of all a male nurse in the hospital and then later on a capo in the quarry in division 2004. He also had block 13.

Q Was Toerrner under your supervision during the time that you were a capo in the hospital?

A Toerrner was relieved of his duties beginning of March '44 and at that time I was not yet capo of the hospital.

Did you have any previous difficulties with Toerrner outside of what you may have mentioned previously?

A Yes.

Q Do you desire to tell the court?

A Yes.

Q Go ahead.

(Mathoi - Court)

20sp

A Two young Polish prisoners came to me and asked me to protect them against Toermer. Toermer had already been relieved of his duties in the hospital and was out in the quarry as capo and they said that Toermer wanted to blackmail them. I asked them what they meant by this blackmail and they told me whenever they got packages from home Toermer would approach them and said, "If you don't sleep with me and give me some of your packages, I will give you the worst work I can in the detail in the quarry". I naturally threw that in Toermer's face and called him names, but I never beat Toermer and he never beat me back and what he said here is false in that regard.

Q Well, who are these two individuals you are referring to?

A They were two young Poles, and they caused my attention because they were so young.

Q Do you know their names?

A No, unfortunately I don't know their names any more.

Q When was that;when did that take place?

A That was during the time when I was still camp eldest and to be specific in March 1944 just before I was relieved of my duties. I can give the name of a witness to whom these two young people told their story and he told that back to me again in the presence of the two young people.

Q Who was that?

A Hans Neisemwentd.

Q Where is he at the present time?

A I don't know. Up until the end at least until

(Mathoi - Court)

Slsp I left the camp he was in the camp.

Q Now, you mentioned also, Mathoi, about not having any alcohol available during the time that you were preparing bandages and things of that nature.

A No, there wasn't any alcohol there. Every week a half bottle of an empty ether bottle in which ether had been formerly kept would come into the hospital and be used for the prisoners there.

Q You are referring then to ether then and not alcohol at that particular time.

A This alcohol was poured into empty ether bottles.

Q Did you ever make a report to anybody about the fact that you didn't have alcohol available when necessary?

A Of course. I told Dr. Schmitz about it, but Dr. Schmitz couldn't get ahold of any either. I don't know why.

PRESIDENT: Any further questions by members of the court?

A I would like to explain one more question to the court.

PRESIDENT: Just a minute. Go ahead but make it brief.

A In February '44, someone reported to the SS that under the fastenings in the ceiling alcohol and food was hidden. The SS went over to investigate. I believe that Reupsch who sits here in the dock was also there and they found there five to six liters of pure alcohol, 16 or 18 cubes of margarine, half a Zentner center of sugar and flour. After this story broke, the people still

22sp

weren't thrown out of the hospital, but I immediately was suspicioned of having tipped off the SS to it, and for that reason my predecessor in the the hospital through Reupsch and Goltz and Taermer ~~[illegible]~~ hated me for that reason. I never did anything. They even laughed at me in the camp because I couldn't even play cards. I never had any gold. I have two fillings in my teeth which I have had since 1944 in February.

PRESIDENT: Any further questions members of the court?

QUESTIONS BY COL. JACKSON:

Q Now, referring back to these post mortems that you performed, did you just open up the bodies, get them ready and after that an SS doctor or some trained doctor come along and make the diagnosis?

A He made a medical report by looking at the specimans and he turned in a report on the status of the organs and the body.

Q Who did that

A The doctor.

Q Now, we have heard a lot of references to this order prohibiting beating by one prisoner to another.

A Yes.

Now, was that a paper order, written order that was supposed to be ignored or what? Was that actually an order?

A That wasn't any written order. That merely came from headquarters, notified the rollcall leader that he should tell the prisoners that it was forbidden for one prisoner to hit another, but according to this order, it wasn't meant that it was forbidden to give slaps on the ear, because the SS knew as well as every other

(Mathoi - Court)

Q Now, was it considered mistreatment for a capo to beat a prisoner for stealin ?

A He had to be under guard when he did that that he didn't wound the prisoner. He would be

(Mathoi - Court) 4286

22sp

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23sp

prisoner that without slaps on the ear, it was impossible to proceed. If that were so, then it would have been a survival of the fittest. The strongest would have remained and the weakest would have died.

Q Was that order actually enforced or was it winked at?

A I must mention that when I was in the other camps in Auschwitz, for example, the capos had more rights than they did in Flossenburg. That was forbidden from the summer of '43. That order was in effect.

Q I am asking about Flossenburg. Was that order forbidding one capo or prisoner to beat another -- was that actually enforced or did the authorities overlook it?

A It had to be enforced because the SS were of the opinion that when two people do the same thing, it isn't the same thing. It was forbidden to beat a prisoner and if someone was caught doing that and reported, then the prisoner would be punished for it some way or other, and by that is meant when someone mistreats a prisoner. That is the way I understood it at least. I can't see it any other way.

Q Well, was boxing a prisoner's ears considered mistreatment?

A No.

Q Was giving him a kick considered mistreatment.

A No, but if you kicked him from the front, yes.

Q Now, was it considered mistreatment for a capo to beat a prisoner for stealin ?

A He had to be under guard when he did that that he didn't wound the prisoner. He would be

24sp

immediately reported if he beat a hole in a prisoner's head.

Well, if he beat him with a gummi for stealing would that be considered mistreatment?

A Of course, if the prisoner would be incapacitated for work because of that, that would be called sabotage .

Otherwise, it was considered proper. Is that correct?

A You can't say it was really proper. That isn't true. But that is the way it was. I can't describe it any other way.

Q But as long as the prisoner was able to be at work, the next day, it was overlooked by the SS, is that correct?

A Yes, when they didn't see it then they just didn't see it, but if it were reported, then the prisoner would be punished. On the other hand, if the SS gave an order for someone to beat a prisoner and the prisoner refused to beat him, then the prisoner who refused to beat would be beaten as well as the prisoner who was supposed to be beaten.

QUESTIONS BY MAJOR FURR:

Q Was it Kamenek or Tomczyk that you said was trying to blackmail the two young Poles?

A Tomczyk.

Q Did I also understand you to say in the same sentence that he wanted them to sleep with him?

A Yes, he was also tinted with homosexuality.

Q Now, it's been testified here too I believe by a Romelaer that you beat a man who refused to take a pill of Dr. Schmitz and that he died the next day

(Pathei - Court)

25sp

What do you know about that?

A I don't know. I should know about it, but I know of no such case where a patient refused to take medicine.

Q Did you beat a man for refusing to take a pill prescribed by Dr. Schmitz?

A No, nobody refused and for that reason I didn't beat anyone.

Q Now, Dr. Legais testified that you struck a Russian with a sick stomach and that the Russian died a few hours later. What have you got to say about that?

A That isn't true. Dr. Schmitz or at least Dr. Schnabel would have found out about it immediately. I would have been reported and got into trouble.

Q Now then, a man named Dufour said you beat a man with a pick handle. The man died.

A First of all, as a camp eldest I never had anything to do with a pick, and that was none of my business and I never beat any prisoner like that because as camp eldest, it would have been known immediately. Half an hour later I certainly would have been in the arrest building.

Q Now, another witness testified that you beat a man with a stool of a chair who fell down and later died. Do you know anything about that?

A No.

Q Now, somebody else testified that you beat a Frenchman who was ill and that the man was knocked down and died in the morning. Do you know anything about that?

A No.

(Mathoi - Court)

26sp

Q Now, somebody else has testified that you made ~~intravenous~~ intravenous injections into Russians of lighter fluid and that they died while sitting on the stool. Do you know anything about that?

A That isn't true because it's impossible. Half an hour later that would have been known everywhere, and I would have been in the arrest building. That is a monstrocity. That is impossible in regard to this prisoner who was supposed to be in the front of the door. That is impossible.

Q Somebody else has testified that you had broken out a man's gold plate and had asked the dentist to make you a gold cap for your teeth from this man's teeth who had just been killed. Do you know anything about that.

A No, it would be impossible to take gold out of any prisoner's teeth. Dr. Schmitz knows about it and also Reupsch who sits here in the dock. As soon as I got in the hospital it was a definite order given out that whenever prisoners arrived in the hospital they would have to open their mouths. Their teeth would be checked and any gold in their teeth would be noted down on paper and that is the reason I put this into effect because earlier gold had been stolen.

PRESIDENT: Court will recess for one half hour.

(Whereupon at 1500 hours the court recessed.)

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschowski, Oswald and Kaye who are sick in the hospital. The interests of these accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Any further questions members of the court?

KARL HASEBI, an accused, resumed the stand and testified further through an interpreter as follows:

REEXAMINATION BY THE COURT (Continued)

QUESTIONS BY LAY MEMBER:

Q Now I understand that you have no dentifrices in your mouth, is that right?

A No.

Q The only thing I believe you said you had was two fillings which were placed there prior to entrance to the camp, is that right?

A No, I said they were put in in February, 1944.

Q These were two fillings, is that right?

A No, these are no fillings. The tooth is still in there. It is a steel crown.

Q Steel crown? 1 or 2?

(Hasebi - Court)

A 2.

Q Now I want to ask you a question about the triangles. What kind of triangles did the homosexuals wear?

A A red triangle with a black stripe.

Q Well now, did the criminal prisoners who were homosexuals wear the red triangle with the black stripe, or did they wear a green triangle with a black stripe?

A I do not quite understand the question.

Q Suppose they were habitual criminals, would they still wear a red triangle with a black stripe?

A No, habitual criminals had a green triangle with the point up.

Q And suppose they were also homosexual inmates.

A The triangle was the same.

Q What was the indication of a red triangle with a purple stripe over it—what did that mean?

A That didn't exist. I only knew that they had pink triangles, but I didn't see that in Flossenburg. I saw that they had that in other camps. That also meant paragraph 175—

Q —Was there a yellow stripe with a triangle?

A That I can't say exactly, but I don't believe so.

Q Was the black stripe the only stripe worn in conjunction with the triangle that you knew of?

A Yes, but there were prisoners in the camp who had not been admitted to the camp because of being homosexuals. They had red triangles or other triangles, and only became homosexuals in the camp.

Q Were they then given black stripes?

A No, not as long as it couldn't be proven.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL MIELVIC:

Q This man Croise who you were supposed to have been accused of having killed, how do you know he is still alive?

A From the books--Sch.F. 9489, Croise, Andrew, Paris, born the 30th of April, 1920.

Q Is that from the rolls of Flossenburg camp, is that correct?

A Yes.

Q What happened to that man, Hans Bruder, I believe you said his name was, who fitted the noose over the prisoner's neck who were to be hung?

A As far as I know and can remember, he was still in the camp as long as I was there, until March of last year.

QUESTIONS BY LAW MEMBER:

Q You say that number is 9489?

A I do not need that and if required I should like to hand it in as I have a duplicate copy of this. This contains also the names of all Martinsks taken out of the books. No other names were given so that I couldn't look it up.

Q Will you read off the list of names and numbers that you have there?

A Yes.

Q Is that all the people whose names appear in that record by that number?

A Yes, all Martinsks who were there, namely: (reading from the list) protective custody check No. 10607, Martinek, Josef, born in Tillowitz on the 11th of October, 1925; protective custody check No. 2500, Martinek, Gustav, born in Hulwsky on the 3rd of May, 1918;

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protective custody check No. 3060, Martinek, Jan, born in Karolin on the 19th of March, 1899; protective custody check No. 2343, Martinez, Johann, born on the 20th of January, 1907; protective custody check (Jugoslav) No. 13747, Martinek, Franz, born on the 30th of June, 1912.

Q I understand your examination of the record indicates all these people are still living?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. MACKEY:

Q Mr. Mathei, I show you two pictures, prosecution exhibit Nos. 41 and 47. Can you tell me who the person in picture 41 is?

A That is Gelts.

Q Is that the same Gelts who was a witness here in the court-room?

A Yes.

Q Is the man on the picture, prosecution exhibit No. 47, a prisoner from Flossenburg?

A I can't say that.

Q But it is known to you that this picture was introduced into evidence to show that this man was a prisoner in Flossenburg.

A That I don't know. I can't say on this picture whether they should have been photographed.

Q Please give an explanation to the court how on the one side a man like Gelts can be as well fed, and on the other side an alledged prisoner can be practically starved to death.

told them to cease the theft of packages or things from packages. From then on, the prisoner again received all the things that were in the packages, food and smoking tobaccos.

Q How did the prisoners in general look in Pleasenburg, like Colts or the other prisoners?

A They did not look like Colts nor did they look like the other men. It's just the middle.

Q How come Colts looks so good?

A Colts didn't have anymore food rations than I did. However, he begged from other prisoners and how he did that I don't know, but he was living well. As a matter of fact, I know he was living well. There were times when I couldn't buy any beers because I didn't have any coupons anymore.

MR. MACK: Thank you.

QUESTIONS BY MR. NG KAI:

Q Mr. Mathoi, from that paper you just read, from the names of the people you were supposed to have killed, did you make any

A This prisoner is definitely sick, and I have seen more than one of these people. I myself looked liked that as a prisoner in Auschwitz, and Goltz never ate bad.

Q I don't believe you just have to be a man who disregards food to look well in Nuremberg. Give an explanation as to the situation how one man can be well fed and another man can be starved.

A I'd like to clarify one case when Lt. Emman of the Luxemburg police was here, he asked me at one time, couldn't you please help me because in the hospital they steal from my packages cigarettes and food. I went to the hospital to Rickert and Goltz and

notation showing what disposition was made of that prisoner as shown by the camp rolls?

A According to the rolls these people must have been in outside camps and then in March or April returned to the main camp of Flossenburg.

MR. MC KAY: That is all.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q March or April of what year?

A I should like to give an explanation.

PRESIDENT: The court will give you an opportunity to make that later on.

Q That was March or April of that year?

A Last year.

Q 1945?

A 1945, yes.

Q Now you checked all of the Martinecks that were listed in the books that have been introduced by the prosecution, is that correct?

A Yes, I was only accused about this one Martinek, but I picked out all the Martinecks I could find.

Q And your search included all the Martinecks listed in that book, is that correct?

A I believe so, yes.

Q Were the prisoners all the prisoners that were in there from October, 1942 up until the end?

A According to the numbers, there are also some who arrived in camp later.

(Method - Recross)

Q Well, did you check those that were in there from October, 1943 on up until the end of the camp?

A I started with book No. 1 and checked all the Martinsks contained in there. When they arrived in camp, it didn't make any difference, I wrote them down, all of them.

Q How how much medical training did you say you had in Dachau?

A 8 weeks.

Q And during what period of time was that?

A From January '41 until March '41.

Q And you received additional training in Auschwitz, is that correct?

A Yes.

Q And over what period of time was that?

A That was in 1942, from August until September.

Q And that was approximately how many weeks?

A August 19th I arrived in Auschwitz and worked with these people, the three Polish professors, until the middle of October.

Q So the total medical training that you had received was approximately 16 weeks, is that correct?

A Yes.

Q During that period of time, did you have a place to give injections?

A Yes.

Q And as hospital corps did you give injections to the prisoners?

A Yes.

Q How frequently.

A 80 to 100 times, I can say. I worked, as a matter of fact,

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as a male nurse in Dachau from January, 1941 until August, 1942.

Q Well now getting back to Flossenburg, how many of these prisoners that you gave injections to died?

A None of them died.

Q All of them got well, is that correct?

A I assumed that because if one of them would have died, I would have known about it.

Q And none of your patients died, is that correct?

A Of course patients died in Flossenburg, but not because of me.

Q What was the nature of these injections that you gave the prisoners?

A Novocain, ommadin, prontosil, ilcodren, evipan, but evipan only in preparation of operations and then only in the presence of Dr. Schmitz and some other doctors.

Q Were all of these injections that were administered by you, administered in the presence of Dr. Schmitz?

A No, the evipan injections, yes; not the others.

Q What quantity of novocain would you administer to the patients?

A You can't give any more novocain to any one than 3 cubic centimeters. That is the normal dose.

Q How much did you give them, Mathei?

A Not more than that.

Q But you did give them 3 cubic centimeters, is that correct?

A Yes.

Q How did you give any injections to persons who were suffering with tuberculosis?

A No.

Q Never at any time?

A No.

Q And what quantity of evipan would you give to the patients?

A 8 to 10 cubic centimeters, but there is a difference between evipan and other injections. You have to inject it very very slowly, the evipan. While the injection is given the patient has to count.

Q Over what period of time would you give these injections of 8 cubic centimeters of evipan?

A 3, 4 or 5 minutes.

Q Now, over what period of time would you give an injection of 5 cubic centimeters of novocain?

A You also inject that slowly, but you always ask the patient if he still has any feeling because it is the same thing as that used by the dentist before he pulls a tooth.

Q What is Cmmadin?

A Cmmadin is injected into the muscular tissue for infections and throat diseases.

Q And what quantity of that did you use in any one injection?

A 2 cubic centimeters of cmmadin.

Q What is prontosil?

A Prontosil is a sulfa-cyde cloride which is given if someone has a rash or an infection of a wound. Also inter-muscular.

Q What quantity of prontosil did yougive to a patient in any one injection?

A 5, and if the doctor gives orders, 10 cubic centimeters.

Q And what is the purpose of clemdron?

A It is also sulfa-cyde.

(Mathei - Mecrese)

Q In other words, prontosil and eleudron are sulfa drugs, is that correct?

A Yes, there might be some more, but I don't know the rest of them.

Q And what quantities did you administer of eleudron?

A 5 cubic centimeters.

Q Now did you administer benzine in any of these injections?

A No.

Q What is the effect of administering benzine on a patient?

A He'd probably die.

Q What was it that you administered to yourself?

A Petrol, 1 cubic centimeter.

Q Now while you were working as cane in the hospital--

A --this is the result of that.

Q While you were working there as cane in the hospital, Mathei, did you undertake to treat the patients that came in there?

A Not internal diseases, I couldn't treat them because I don't know anything about it.

Q Surgical you did treat, is that correct?

A If he had ulcers of course, if others were busy, I did it.

Q How often did you use a scalpel?

A During all the time I was in the hospital at Flossenburg, 6 times perhaps.

PROSECUTION: No further questions.

MR. HALL: If it please the court, we have been getting quite a bit of testimony matter which is of surprise to me, and I would like to have 5 minutes to talk to Dr. Schmitz.

PRESIDENT: The court will give you that opportunity.

(Mathei - Recross)

Mr. Hall, in just a moment after the court has given Mathei an opportunity to make certain explanations.

Mathei, you have requested an opportunity to make certain explanations to the court on two different occasions. The court will give you that opportunity at the present time.

PROSECUTION: May it please the court, I have one other question I would like to ask him before he has that opportunity.

PRESIDENT: The court will grant that request.

QUESTIONS BY PROSECUTION (continuing):

Q Now Mathei, you stated time and again that it was impossible for a prisoner to beat another prisoner to death or kill him unless he would end up in the arrest building immediately, is that correct?

A Yes.

Q Well, is that your meaning, is that what you had reference to when you stated in your letter it is important to emphasize again and again that an inmate could not beat to death another one without having to face the severest punishment?

A No, that isn't what I meant. What I meant was that he could be honest about it—that it wasn't so easy to kill another prisoner.

Q Well is that what you wanted ~~former~~ Mathei to say?

A Of course, because that is the truth.

PROSECUTION: That is all.

PRESIDENT: Now, Mathei, the court will give you an opportunity to make any explanations that you previously requested of the court for the opportunity on two separate occasions. The court desires that you make these explanations at this time.

ACCUSED MATHOI: Yes.

(Mathei - Recross)

PRESIDENT: Just a minute, if there is any question about the subject of these explanations, the court will allow the defense counsel an opportunity to confer with Mathol before he makes that explanation.

MR. MC KAY: If it please the court, I think I can clear it up. There are two things I remember. One was the statement that he made in this letter. I think his attention should be called to that.

ACCUSED MATHOL: Yes, for one thing, I wrote this letter because I imagined that the court could feel how we as former prisoners feel about accusations that are far from being the truth. Of course, being under such moral pressure, one does not have the full command of one's nerves as one has as a normal person, and what I wrote in there about 90 percent of these things not being the truth is correct, for that I will give my hand. I never thought in all my life that I would have to account for things that I have never done and that are being made up. We prisoners in the camp were tremendously happy whenever we heard illegal news from civilians or otherwise that the Americans were moving nearer by nearer into Germany. And now we that have been subjected to all kinds of indignities in these camps and have been tortured there by the Nazis now we are being brought before the court and we are accused now.

The second one is the questions of triangles. All those in the concentration camp who wore the point of their green triangle up were habitual criminals. These were prisoners who were in protective custody after they had served their sentence, in whose case the court had prior to their set sentence announced their protective custody after the serving. I remember people who were sent to the camp and who arrived there and I know several cases who had red triangles, and after they had been investigated by

the political department of the camp, they received the green triangle. On several occasions I talked to an SS man who was working in the political department whose name was Kaufmann. Those who were in the camp with green triangles were called PSV (police security arrest) or else VH (protective custody prisoners). Some of these prisoners were men who had violated traffic regulations with bicycling, or had remained in a restaurant after the certain prescribed hours, or had been accused of brawling at night. Two or three of such violations and he would receive a green triangle from the political department without ever having been before a court. That was mostly an arbitrary measure on the part of the Gestapo of their home town. Nothing else I can say about the questions of triangles. People who had black triangles were also sent to concentration camps. There were other people who had illegitimate children and didn't pay for them, or a person when drinking was caught by the police when he was outside after having been drinking more than he could take. This man would be sent to the camp for an indefinite period of time and those in Germany who weren't in the protective custody of the police were in the penitentiary of Straubing or in the outside camp Gusen of Mauthausen. If those halls were overcrowded, they were sent to the various concentration camps and this was the way these people came to the camps.

PRESIDENT: Anything further at the present time, Mathoi?

ACCUSED MATHOI: No.

PRESIDENT: Mr. Hall, the court will give you an opportunity for a five-minute recess to confer with Dr. Schmitz. I think that is what you have in mind, and if you need more time, the court will grant it.

The court will take a short recess.

(Whereupon the court recessed at 1625 hours.)

(Whereupon the court reconvened at 1635 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and prosecution are present, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswald and Weye who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court understands, Mr. Hall, that there will be a cross examination by you of the accused, Mathoi. Proceed.

KARL MATHOI, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY MR. HALL:

Q Who is Dr. Schnabel?

A SS garrison doctor, Major Schnabel.

Q During the time that you served in the hospital, did you have occasion to see Major Schnabel daily?

A No.

Q Was he employed at the hospital during the time that you were there?

A Dr. Schnabel? Of course.

Q In other words, he was on duty there throughout your tour of duty in the hospital.

Q Now I presume that you observed that a corpse emanates quite a few foul odors.

A Yes.

Q And I presume that your knowledge is sufficient to state that from a corpse there comes many poisons, is that correct?

A Yes.

Q Do you know as a matter of fact that a practicing physician and surgeon does not make the incisions in a post-mortem examination?

A I know that I forgot to tell the court in the first place that a doctor never carried out a post-mortem, neither Dr. Schmitz nor Dr. Schnabel.

Q And do you know that the reason for that is that a practicing physician and surgeon must not permit himself to be contaminated by the dangerous poisons that come from a corpse?

A Yes.

Q Do you know what a corpse servant is?

A Well I know that the corpse servant is the one who cleans the corpse before they are buried in civilian life.

Q Had you ever heard the term corpse servant in connection with one who performs these various incisions in connection with the

A Of course.

Q Do you know how long prior to your arrival at the hospital that Dr. Schnabel was at the hospital?

A He was certainly there before I ever arrived in Camp Flossenburg.

Q What conversations did you have with Dr. Schnabel in connection with your duties?

A There was no conversation with Dr. Schnabel whatsoever. He gave me his orders and I had to carry them out.

post-mortems?

A No, but I have heard the term post-mortem performer of corpses and those are employed by the hospitals. In my home town there is a man who only performs post-mortems.

MR. HALL: That is all.

PRESIDENT: Anything further, defense?

QUESTIONS BY MR. MC FAY:

Q Mr. Hathoi, the amounts of the various drugs which you have told the prosecutor that you gave, will you explain to the court just who determined the amounts that would be given to the various patients which you injected?

A The doctor only.

Q You had nothing to do with determining the amount of them yourself, is that what you intend to convey to the court?

A Absolutely not. There were ampoules of the various medicants of 1 cc, 2 cc, and 5 cc, and there were ampoules with 20 cc's. But the prontosil only in 5, the cardiazin only in 2 and eleudron only in 5 cc ampoules.

Q And each injection you made was in accordance with doctor's orders, is that what you mean?

A Yes, of course.

PRESIDENT: Defense, anything further? Recross.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q How long were these doctors in the hospital, during any one day?

A Lots more things were going on in the hospital when Dr. Schmitz arrived as when Dr. Schnabel had been there. Dr. Schmitz arrived at about 7 o'clock in the morning and never left until 11:30 or 12 noon, only in the morning at about 8 for half an hour to drink his coffee and then he returned. At 2 o'clock he was

there again and never left before 4:30 or 5 and if the ambulance hours were at night, he was there too. That was always after roll call, I can say from 7 to 8 o'clock.

Q How frequently was Dr. Schnabel there?

A When Dr. Schmitz was sent to the hospital in Flossenburg, Dr. Schnabel was there quite often of course, and for the simple reason that he didn't want anyone to meddle with his so-called privileges, but so far as I can determine and from what other prisoners told me, Dr. Schnabel knew very little about medicine. The main thing for him was the alcohol.

Q And you gave these injections at the direction of Dr. Schnabel, is that correct?

A Yes.

Q In the quantities that you have mentioned to the court, is that correct?

A Yes.

Q And they were not administered while Dr. Schnabel was there, were they?

A No.

Q And they were not administered when Dr. Schmitz was there either were they?

A Not always. Mainly when they were given to the patients at night in the wards or in the ambulance.

Q And this man whose name you looked up in the books, what nationality was he, the one you were looking for?

A Dommelier mentioned a Martinek and I was looking for a Martinek and he was talking about a Croise and I looked for Croise but the way I have to tell it to the court, there is a lot of swindle in those books because things have been erased and other remarks

(Mathol - Recross)

have been written down, remarks that I know to be very differently from the camp. For instance, one man I knew was marked as a protective custody prisoner. Had he been that, he would have had a red triangle, but he had a green triangle. 2 pages further down, there is another one marked as protective custody prisoner in this book, whom I happened to know in camp as a man with a green triangle. Besides that I have found lines where the original names have been eradicated and a new name added.

Q Well, did you find any names that showed they had died and then they were not dead?

A As far as I know, behind the name of each man who had died a cross was stamped with a rubber stamp in the camp. I have seen crosses made with pencils by the names. Of course, I didn't see any such cases, but I should like to believe that those were added afterwards. And it is not clear to me why Golitz adopted the name, Pierre Bertram.

Q Will you tell the court whether or not you have found any entries in this book where a man is stated to have been dead when he is in fact still alive?

A For one thing, this Martinek or this Croize was said to be dead, and he is not dead.

Q Well, did the book show that he was dead?

A But there are other people here who found dead prisoners who are not dead.

Q Will you answer my question, please?

(Whereupon the reporter read the question.)

A I can't say whether they are still alive. I wasn't in camp until the last and of course it is impossible to know of every

person in the camp.

Q So you don't know whether this Frenchman, Croise, is alive or dead?

A According to the entries he should still be alive. Of course, he could have died. I don't know that because I was not connected in any way with the entries in the books.

Q Well, did Bommelaer say you killed a Russian, a Pole or a Frenchman?

A I don't know that exactly anymore. All I know is that I remember the names Martinek and Croise mentioned by a prosecution witness.

Q You didn't look at the No. 7960, did you?

A I don't know who that is.

Q And you didn't look at No. 4582, did you?

A I don't know the numbers and I don't know the names.

Q Where did you get the spelling as M-a-r-t-i-n-e-k?

A Martinek--Bommelaer stated that.

Q Did Bommelaer state that or did he state that the name was Martinjek?

A He said Martinek.

Q I hand you a book marked prosecution exhibit No. 13, Mathoi, and call your attention to No. 7960 and ask you to state what that name is that appears under that entry, No. 7960.

A His name is Martenjek, his number is 7960 and he died on May 27, 1944. That would have been the time during which I was in the hospital.

PROSECUTION: No further questions.

(Mathoi - Recross)

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Floss

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q For what purpose did you use the scalpel 6 different times?

A To open ulcers in the back of the neck or in the hand.

Q What was that you started to say and didn't finish about Colts changing his name.

A I can remember that the name Pierre Bertram was mentioned in the old cloak room.

PRESIDENT: Any further questions by members of the court? Apparently not. Defense, any further questions? Prosecution? Apparently not.

Mr. Mc Kay, the court understands that you are finished with the present witness, Mathoi.

MR. MC KAY: I am finished with him.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and resumed his place in the dock.)

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon the court adjourned at 1700 hours until 0900 hours, 1 October 1946.)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD. First Duplicate

FLOSSENBURG
Case No.

*~~Summary~~
*~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 1 October 1946
0900 - 1700 Hours

*~~Members of Court~~:
WITNESSES:

KARL FREDERICK ALOIS GIESELMAN

Pages 4310 - 4431 Incl. Copy.
Prosecutor

Defence Counsel

Interpreter

Reporter

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH FLICKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

1 October 1946 0900 - 1700 Hours Pages 4310 - 4431 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
KARL FREDERICK ALOIS GLESELMAN	4310 4321 4339 4417				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-12	Map by Dieselmen	4327	4329
D-13	List of Deceased	4339	4403
D-14	" " "	4411	4413
D-15	" " "	4413	4416

Camp Dachau, Germany
1 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

MR. BIDDLE: May it please the court, let the record show that all the members of the court are present; all the personnel of the prosecution, with the exception of Colonel Denson, who is absent on business of the prosecution; all the personnel of the defense, with the exception of Mr. Hall and Major Seding, who are absent on business of the defense; all the accused, with the exception of Buddensieg, Oswalt, Olschewski and Ginschel, who are sick in the hospital, and whose interests are being taken care of by their counsel, and Fahrnbauer, who is consulting with his counsel. If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave.

PRESIDENT: Proceed, Mr. McKay.

MR. MCKAY: If it please the court, Karl Gieselman, an accused, wishes to take the stand in his own defense.

KARL FREDERICK ALOIS GIESELMAN, an accused, voluntarily took the stand in his own behalf and testified through an interpreter as follows:

PRESIDENT: Mr. Gieselman, the court understands you desire to take the stand in your own behalf.

ACCUSED GIESELMAN: Yes.

PRESIDENT: Proceed.

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Gieselman, you are one of the accused in this case?

A Yes.

Q Were you ever a prisoner in Flossenburg concentration camp?

A Yes.

Q Will you explain your nationality to the court?

A In 1939 after friends of mine—foreigners—had filed a petition for release for me I was told by the commander Weisenborn that this release had been rejected, with the remark by the authorities in Hamburg "Return. Not wanted". At this time Weisenborn read to me a decree issued by the Ministry of the Interior according to which I had lost the German citizenship without any reason. At that time and today I didn't care about it because Hitler's laws didn't mean anything to me. I still consider myself a German, though.

Q Wieselman, do you desire to explain to the court why you are taking the stand on your own behalf?

A I am taking the stand to tell the court and show the court everything which I consider to be the right thing in my own defense. And because, although I have had 800 prisoners under my command I cannot summon any of them as witnesses before this court because they consist of the following: Poles, Russians, Belgians, Frenchmen, Czechs, Ukranians, Hungarians, Slovenes, Dalmacians, Greeks, Croats, Serbs, and Slovaks, and also four Germans, who have disappeared also. I cannot summon any of those witnesses and have to defend myself. There was, for instance, one man who could have testified in my behalf, who could have been a witness for me, but he begged me on his knees not to drag him into this trial because he wants to return to his wife and children one more time and he is afraid that he would meet the same fate—he was a block leader—so I have to depend upon myself.

Q Mr. Wieselman, while you were in Flossenburg will you explain to the court the color of the triangle that you wore?

A I wore a green triangle in Flossenburg and have to go far back in order to explain how I got this green triangle. In 1918

I was one of the top men in the German revolution. At that time I took over the fortification of Wilhelmshafen and I was the commandant of Wilhelmshafen fortification until February 19. This put me in direct opposition to all National, and later on, National Socialistic circles. After this time I settled down in Bremen and took a profession there. At that time there had not been any telephone register in Bremen and before the German Reichspost office realised this fact, I had issued a Bremen telephone register book. At that time I continued going in the editor's profession; I bought the copyrights from Alla and from the brothers Richter in Erfurt and worked as an editor. At that time I got in hand also the Bremen Nazi Socialistic paper. I secured this newspaper at that time financially by using my firms to make propaganda for them. After these people thought they could get along on their own they pushed me aside. I used my connections to pick up all the advertisements from Bremen for the Bremen workers newspapers. The result of that was that the National Socialistic newspaper corporation had to close one month later. At that time it was an open battle, a battle of economy against myself and my firms. At that time, and that is quite well-known, were several governmental agencies which were already Nazi Socialistic, such as the Reichspost, the Reichspostoffice, the Reichspostoffice advertisement section, as well as the Reichs justice section.

I found another enemy in the Hamburg newspaper, the Nachrichten. It was an old newspaper, originally activated by Bismarck. It had existed for better than a hundred ten years, and they only waited to go over to the National Socialists with flying colors. This paper went as far as to uncover my private life and to publish that I had received a sentence for forgery. At that time I received a quarter of a million from a construction man in Hamburg, however, I did not like this man as a partner; I returned his two

hundred fifty thousand to him and sent him to the devil. The result of that was he reported me for forgery. I came before a court; they had to take measures against me, and I received a sentence of two hundred fifty marks. With this story the Hamburg Nachrichten, the Hamburg newspaper, made propaganda. The fight became harder and harder as time went on and this finally resulted in a report made by the Reichspostoffice advertisement section (RUBH), which worked closely together with the Hamburg newspaper. I was reported because of copying things and because of unauthorized competition. I did not appear in all my firms. I was the director in the paper association, but I was partners in several other firms, and was in the board of directors.

These court procedures lasted seven years and they cost approximately four hundred fifty thousand marks. At that time I became known to the Hamburg civil courts. I won all these court procedures up to the Oberlandesgerecht—the upper country court—but the final decision lay with the Reichscourt and the decision was that the Reichspostoffice telephone number was not to be used by me. That finished half of my works—the alphabetical part of my works had to be left away. There was only one choice left for me—that I could offer to give to the Reichspostoffice the alphabetical telephone registry for nothing by telling them that they should have to leave it up to me to take over half of the Reichspostoffice advertisement section. The circles who had taken possession at that time already of the Reichspostoffice advertisement section and the Reichspostoffice did not want that and gave this right to their friends, Hermannserben—that's the Hamburg newspaper. The competition by the Nazi Socialistic circles went so far that they broke into my offices. Nothing was stolen, but hundreds of thousands of new file cards for the new registry book were thrown all over the place so that I was set back

three months before I could print them. Finally they got me so far that I had to close my main firm.

During all this time, during all these fights, I was reported time and again. All these things were reported in Hamburg to the pre-trial judge. My opponents saw that they couldn't get anywhere this way and tried with the other courts. I was arrested while traveling and I was reported to the investigation judge in Bochum because of forgery. While I was in arrest for investigation my main businesses broke in Hamburg, Bremen and Waterburg so that I had to look for another way out. When I had another conversation with the investigating judge I asked him whether I could not be released from this arrest. He explained to me "As long as you won't confess you won't be released". I asked him whether I would be released then. He said yes, then, immediately. I told him I don't believe that; I want proof for that. To prove it to me he sent a criminal assistant along with me to Hamburg. At that time I was able to put several things in order in Hamburg and to take along two of my account books. This criminal assistant in question had the job to get a confession from me so that I could be released. I gave him those two account books containing forty to fifty thousand marks of orders and told him "Here, that's all forged". The result of that was that I was released when I returned to Bochum within half an hour.

This thing and the following trial, in which I was sentenced to one year and one quarter imprisonment didn't make any difference to me. The main thing to me was to secure the rest of my possessions because when the time would come I was able to demand a new trial and bring everything back to order again. And following that time I was never arrested to serve this sentence. In the meantime I had been in foreign countries and I returned in December '32. December 16, upon my return to Hamburg, I was arrested surprisingly. The Nazi

Socialistic circles had reached such a power at that time that they didn't have to slum anything. At that time reports about me rained into the jail but nothing could be done before Hamburg courts des ite everything. A student/colleague of mine then went to Halberstadt—he was a Dr. Hardtmeier. My reception in Halberstadt in front of this court by the judge was "Heil Hitler. Your sentence has been determined already. We don't need any witnesses. I am satisfied with the report made by the criminal official". The reason for this was a small business had given order for an advertisement for six marks. This advertisement had not been printed because of the closing of the business and this six marks had not been cashed either. The man whom these circles had been searching brought out as a matter of cheating. He felt himself cheated by my representative who had not told him that he came from the Reichspostoffice advertisement section but he had assumed that and that now the time to take up anything for the Reichspostoffice advertisement section was over and that he was unable to send the advertisement there either and he called that cheating.

According to German law, there was no proof for that whatsoever. When someone is being cheated, in German law the German law requires as a matter of proof personal advantages by giving wrong facts to someone. To be concise, within fifteen minutes I received a sentence of two and a half years imprisonment. To be concise, I had accumulated four years of imprisonment within a short time. I served those four years and was released on December 6, 1936. I was summoned in Hamburg and I was told that it was forbidden for me to practice any profession. I was forbidden to ever go back to the editor's businesses I was forbidden to ever work for any other firm, any printing firm or newspaper or anything of that sort, not even as a house servant. National Socialism took all possibilities away from me. I then wanted to go into foreign countries and I wanted to leave

in April. In January and February I was sick, and still being sick in March, I was summoned to the police. The order read "You are respectfully requested to see us in a patent matter". This summonsing was a lie. For the same thing I talked to them for eight years. I was then arrested and I was told that I would be sent to a concentration camp as a preventive prisoner. I asked them what laws could be used and I was told your private life ceased. I was sent to the concentration camp Lichtenburg. I do not have to talk about the reception or other such things—it is known how that was done.

From Lichtenburg I was sent to Buchenwald. I helped to build all of Buchenwald and I am acquainted with all of the hardships there. And in Buchenwald I received the so-called green triangle. This green triangle with the point up means preventive prisoner of the police.

December 23, 1938 I was sent to Flossenburg also to help build this camp. As far as the charge sheet is concerned, in '42 I was working in the camp office. I was taking care of the card files there. And in the middle of '42 I had to take charge of the prisoners canteen.

Q How long did you continue in the prisoners canteen, Mr. Gieselman?

A In December '43 conditions in the canteen became so unbearable because of Fritsch that I didn't want it any more. Fritsch required the prisoners that if they would buy things for one mark to buy cigarettes for forty pfennigs and for the rest of it to buy something that they didn't even want or need. I told Fritsch repeatedly about the impossibility of this sort of thing but he maintained what he wanted. Occasionally during conversations with other prisoners of course I passed the remark "On January 4 the, will be counting the books and then I will give the keys to Fritsch—I

don't want it any more". The SS spy Gott overheard this and, of course, carried it over to Fritsch and told him about it. Fritsch did a very simple thing—he threw me out before them. I was then sent as a punishment to the railroad station to the unloading details in February to the stone quarry to Pipl. There was no protection at the railroad station. You had to work until you got warm. There was also none in the stone quarry, but the prisoners there did it differently, they either went to the stone masons hall or else sat underneath the cranes near the fire to keep warm. When the civilian master Schlickauf, or whatever his name is, came around people would start yelling and made a lot of noise until he had left and then would crawl back again.

Q How long did you continue to work on this detail in the quarry with Pipl?

A I worked there for one month. All of my working colleagues I only saw when the work was distributed and when food was handed out because that's the only time they were around. They all fell in. Everyone received the breakfast bread or at noontime their food. Other than than I never saw the whole detail assembled like that. And the stone quarry itself was only a poor rest of the original stone quarry—the stone quarry was only a sad left over of the original stone quarry, and all the people who worked there were people they could not use in the armament factories.

From there I was sent to the stone quarry office. This whole thing took place from about January until about the end of May 1944. At the same time I was the block clerk in block 6 where I was living. One day the roll call leader Kubler sent someone to the stone quarry to pick me up. I returned to the camp and I reported and Kubler told me that I was supposed to take over block 19, which would be the juvenile block. During all those years I never had shown any

interest to take over any such job. I asked Kubler not to do that and to leave me in the stone quarry office where I was needed. Kubler told me that the the whole situation was different; that the commander had decided after Fritsch had left that he would have a juvenile block in the camp in order to control the increased homosexuality in the camp. He told me, "You were named to me as being a man who opposed homosexuality. I told that to the commander and he told me that you would take over the job, and there is no other way about it now". At the same time the commander had designated the camp from the Messerschmidt works, Wittmann, to also take over this job, by stating that Wittmann knew all the juveniles because they were working with him outside there in the Messerschmidt works. Wittmann moved to A wing of block 19 and I moved to B wing. At first there were 300 juveniles in A wing. Then the handymen evacuated the B wing and juveniles were also put in there, allof them under eighteen years. But not all juveniles had been in the block then by that time. Many of them remained in their own blocks. It was not my job to pick them up also and bring them own.

At the time that I had to take charge of this block I believe it was about the worst time that was ever known to have been in Flossenburg because the year starting with the middle of '44 until '45 was exclusively a year of death. It was not alone that the camp was so overcrowded. No, it was like this, that the sick men would remain back in this camp and the healthy men would get ahead. At this time all the transports which arrived there were thrown into Flossenburg. All the healthy people were sent to other camps and the sick men and sick people would remain behind; they would remain in Flossenburg.

Q What do you mean by other camps?

A The were sent to other camps such as Buchenwald or

Natzweiler or outside camps or things of that nature. But not that alone was the difficulty of the situation at that time. The worst thing was that we prisoners in this camp were depending upon ourselves with nothing. The administration didn't issue any brooms, soap or any cleaning material; there was nothing left there. There was hardly anything remained in camp. There were no blankets, no clothing; there were no shoes—everything was just finished. And while this confused situation existed I took charge of A block. The block received the name Kindergarten in front of this court.

I should like to describe the Kindergarten. There were fourteen nationalities. Among those fourteen nationalities it was the same thing as today—they couldn't get along with each other. The situation with the small ones was this, those were the children between eight and fourteen. Those children had lost their parents in gas chambers or their parents had been shot to death in Krakau, or things of that nature. Those were ten to twelve. Then there were the ones up to sixteen. Those were about thirty or forty; and the rest of the bulk up to eighteen years. These young people had been torn away from their homes, from father and mother, had been forcibly pressed into the German armament factories. They all had gotten their bad experiences there. So that you can say all of those were children with the experiences of an adult. Add to this that the bad years of a child are within this age and also the years where the child becomes man. I believe it could be clear to any sensible man that you couldn't call this exactly a Kindergarten.

I have to emphasize that when I took charge of this block I did not have any one guide me, neither the SS nor the assistance of the SS, which, of course, didn't exist any more at that time. I merely worked according to my own mind.

PRESIDENT: Court will take a half hour recess.

(Whereupon at 1000 hours the court recessed.)

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Flessen.

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Mr. Hall, Major Oeffing and Dr. Wacker, who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswalt and Ginschel who are sick in the hospital and Fahrnbauer who is consulting with his counsel. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Proceed, Mr. McKay.

KARL GIESELMAN, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (Continued):

Q Mr. Gieselman, will you explain to the court just how these juveniles behaved themselves in block 19 during the time that you were blockeldest?

A Before I take a position and explain how things went about in block 19, I will have to explain to the court how it happened that I acted as I acted. Before I took charge of this block, I had already had 7 years experience in the camp. Only he who has all the tribulation, misery and suffering and experience of a concentration camp behind him can understand how a person has to

Ga 452-10/1-1of-2

go about it there. In regard to the way I was to act in block 19, I already had good experience behind me. The year before, 2500 Russian prisoners of war were delivered into the camp. These 2500 Russian prisoners of war were driven into 2 blocks. These 2 blocks were divided horizontally by a wall of boards. These 2500 people were squashed into these insufficient living quarters. They didn't have enough clothing. They brought all their lice with them, all their sicknesses. They put up a barbed wire enclosure around the whole works and then literally let the people crawl out.

MR. MC KAY: Let the record show that the accused Fahrenbacher, No. 11, has returned to his seat in the dock. Mr. Hall and Mr. Hacker have returned to the defense.

A —And that was the first condition which we prisoners later characterized as death by compression. The greatest part of these Russians died on dysentery and other intestinal diseases and on pneumonia, which was corresponding to their insufficient clothing. And finally, they died of diseases which the lice carried with them.

MR. HALL: If the court pleases, I move to strike so much of the answer of the cause of death as his being unqualified to give so.

MR. HECKERLING: If it pleases the court, the witness while he may not be a trained doctor, nevertheless has had the opportunity to observe and give the conclusions of the ordinary man which is admissible in cases of this sort. He is not offering this as expert opinion, but merely as the observation of a layman.

MR. MORTON: I also maintain the position that the witness is not in a position to tell the court what these people died of. That is a conclusion on the part of the witness and he

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needs to have medical knowledge to draw this conclusion.

PRESIDENT: The motion to strike on the part of Mr. Hall as supported by Dr. Engelborn is sustained. Proceed.

QUESTIONS BY MR. MC KAY (Continued):

A The result of this whole story was that what remained of the Russians could be cornered in a half of a block. That is my experience. Then when I took over charge of block 19, I was interested in trying to keep life among these crowded conditions. The personnel in the block increased from day to day, from week to week, until it reached a total high number of 980. There was only one thing--that was to constantly pay attention to cleanliness and to constantly delouse everybody, to try to get warmer clothing for the inmates, shoes, sweaters, coats and underwear. And at that time, all that wasn't very simple. The only thing we had to use for delousing was 'dalochn'. That was a delousing powder which often was ineffective. The only way we could conquer the danger of lice was to examine everybody every day and to bathe as much as possible and besides that, I had to take care of warmth in the block. For one stove, there would be 7 blocks of coal in the block. How can you keep a block warm with 7 blocks of coal?

Q How long did that have to last?

A One day, 24 hours. The only thing that I could do was to scrounge for things. That is the term which has been discussed here so often. That means to get them one way or another, and so that was my task to get coal and underwear, one way or another, for the people and I can maintain that the people in my block were the best-dressed people in the whole camp. I, myself, had worked for one year in the clothing chamber and I knew the ways and means to get something out of there. Woolen blankets were a special

(Mieczlaus - Direct)

object in the camp. It wasn't that the administrative leader Kerscf didn't have any, no, it wasn't that, he just didn't give any out. A defense witness here in my behalf said here from the witness stand how I got a hold of these blankets. He only caught me twice. In that year I scrounged around 700 blankets. Many people who got a hold of a warm woolen blanket preferred to barter it off in the black market and so there was an eternal fight going on.

Block 19 was the first barracks which was built in Flossenburg. Besides that, it is located next to a swamp where water is running down, and the foundations of the barracks was built upon piles 10 by 10 centimeters and most of these pilings were rotted. When 9 boys would sleep in a 3 decker bed, the floor would often break through in the night under the weight and the boys would lie there and would scream. I wrote letter after letter, report after report, to the administration but they never moved a finger. Also in this situation, you had to scrounge up wood or anything else you needed, one way or another, and because the personnel in the block were so crowded, the window panes were constantly broken, and you couldn't hold it against the boys that that happened because they were scarcely able to turn themselves around inside the room there. The adjutant would come and say why are the window panes missing here. I would be told that the administration didn't have any more window panes and I would get a box in the ear. Then we would have to scrounge up window panes. We would go to the quarry and get glass from old airplanes. In that year I dragged about 200 to 250 window panes into the block from the quarry.

The straw mattresses weren't actually straw mattresses. It was a wooden wool--artificial wool and the mattress covers were

Sa 462-10/1-lof-5

made of paper. When 3 boys would sleep in these mattresses for a few weeks, the mattresses wouldn't be worth anything and that is the way it was with everything in the block. We asked for everything and got nothing, because actually at that time, the National Socialistic Regime was collapsing then and they didn't give a damn for what happened to us and at that same period of time I had to see to it that everyone got his portion of food. And that was the only thing that block 19 couldn't complain about. We would get our 25 kettles of food from the kitchen. And that means that out of a kettle which contains 45 liters, I had to make 35 portions and so it happened that everyone would get an overflowing spoonful of extra food from this porridge. Besides that, on Wednesdays and Sundays the juveniles would get a bread portion on the side--an extra one and breakfast sausage. For many unimportant reasons, the boys would get special things here and there. I would get the remaining food from block 1, at least most of it, and now and again I would get something from the kitchen in addition and even though I considered the food rather inferior, still the entire personnel in the block was well fed. And I believe that the dispensing of the food in block 19 occurred with the least friction, because I was able to convince the boys that at least during the time when the food was given out they should maintain order. I am now coming to talking about beatings.

Q Describe that for the court.

A I am basically opposed to any form of roughness and I very often talked against any kind of beating in the camp, but whenever it was a case where one person would be so conscienceless and not consider the general welfare of the block, for instance,

(Klessheim - Direct)

when he would avoid going to be delousod, or in the evening when he took off his coat he would pile up the lice off his body, or when he is such a poor comrade that he steals bread away from another comrade or when it happened in the morning that you would find excrement and urine in vessels which were not supposed to be used for that or when these many boys from various countries would argue and fight among themselves, then I consider it a matter which is self-understood, when a few horns on the ear are given out. A father only needs to have 5 sons and then it is a matter of course every week that one of them is going to get some blows. And because of these blows, I had differences with the chief cops Wittmann. It is not so as various witnesses here would like you to believe that I ran around from morning until evening with some object in hand and used it for striking. I am such a man that I had confidence in myself that I was capable of convincing these boys and bringing them to the point I wanted to bring them without hitting them. Now I will discuss how people slept in the block.

Originally, 225 iron bed bruces were in the block. These apparatuses were 7 years old, just as old as the block, and they were just as much gone to the dogs. They were crooked and broken, and I succeeded in convincing the administration to give me 300 wooden bed frames in place of these broken ones and so on an average among 8 or 9 hundred people, 3 would sleep in one bed. Actually, it would happen sometimes that in one bed it would be two large adults sleeping together and in the beds which stood in the day room, 3 or 4 small boys would sleep in one bed.

Q When you speak of adults, what do you refer to in your block?

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A I mean those who were physically well developed and were adult in that respect. The sleeping conditions as a whole were bettered by the fact that some of the people would go to the night shift to work and those people would be redmoned out of the entire number of people and they would sleep in the daytime and in the later period when I had 2 or 3 hundred people there in the block who didn't have any work, I would let them sleep in the daytime--send them to bed and the Hungarian Jews are the people who are involved for the most part in this matter. They came into the camp completely exhausted, starved.

MR. MC KAY: Will you mark for identification this map as defense exhibit No. 12?

(The document referred to was marked Defense Exhibit No. 12 for identification.)

Q Mr. Gieselman, I now hand you what has been marked for identification as Defense Exhibit No. 12 and ask you what it is.

A That is a map of block 19.

Q Who prepared that?

A I did it myself and it represents "B" wing, toilets and washrooms. "A" wing isn't represented here because "A" is the same as "B" wing. There is a legend here of the particular locations and positions inside the wing. Of course it is only in German language, but you can tell by looking at this map that in the dormitory there were 37 beds which had 3 decks to them.

Q Mr. Gieselman, I hand you a pencil now and ask you to mark with the letter "D" the part of the wing which was used as a dormitory or sleeping room.

A (Indicating).

Q Now I notice that in this part of the diagram there you have placed the letter "D" there are a lot of small blocks with "X" in them, what do those represent?

A Those positions that are marked with a "X" represent the beds and each square represents a 3-decker bed.

Q Now will you mark on this plan with the letters "D" and "R" the part which represents which you knew as the dayroom?

A In here, this is the dayroom (indicating).

Q How does that include the entire enclosure?

A The whole square.

Q Now where did you yourself sleep in the dayroom?

A Here in this bed which is marked with a R-1.

Q And these other beds which are in this room, are these the beds you have described as the ones the younger boys were sleeping in, three in a bed?

A These blocks here which are marked with a "X" are the 39 3-deckers which approximately 90 juveniles slept in--13 3 deckers, 39 altogether. And in the other corner in this bed which is marked with R-2, that was used for sleeping by my Czech clerk. It is exactly the same way in "A" wing. The only difference was that the chief cook Wittmann slept there and my orderly, the Russian prisoner of war.

PRESIDENT: The court feels that if the witness is going into more detail, it should be offered in evidence right now.

MR. MC KAY: At this time the defense offers in evidence Defense Exhibit No. 12 which has been identified as a plan prepared by this witness portraying "R" wing of block 19 of which he was blockeldest.

PRESIDENT: Any objections.

Q Now I notice that in this part of the diagram here you have placed the letter "D" there are a lot of small blocks with "X" in them, what do those represent?

A Those positions that are marked with a "X" represent the beds and each square represents a 3-decker bed.

Q Now will you mark on this plan with the letters "D" and "R" the part which represents which you knew as the dayroom?

A In here, this is the dayroom (indicating).

Q Now does that include the entire enclosure?

A The whole square.

Q Now where did you yourself sleep in the dayroom?

A Here in this bed which is marked with a R-1.

Q And these other beds which are in this room, are these the beds you have described as the ones the younger boys were sleeping in, three in a bed?

A These blocks here which are marked with a "X" are the 39 3-deckers which approximately 90 juveniles slept in--13 3 deckers, 39 altogether. And in the other corner in this bed which is marked with R-2, that was used for sleeping by my Czech clerk. It is exactly the same way in "A" wing. The only difference was that the chief camp Hittmann slept there and my orderly, the Russian prisoner of war.

PRESIDENT: The court feels that if the witness is going into more detail, it should be offered in evidence right now.

MR. MC KAY: At this time the defense offers in evidence Defense Exhibit No. 12 which has been identified as a plan prepared by this witness portraying "R" wing of block 19 of which he was blockeldest.

PRESIDENT: Any objections.

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PROSECUTION: No objection.

PRESIDENT: The court will receive in evidence Defense Exhibit No. 12 and give it such weight as deemed necessary.

(The document heretofore marked Defense Exhibit No. 12 for identification was received in evidence as Defense Exhibit No. 12, is attached hereto and made a part of the record.)

QUESTIONS BY MR. MC KAY (Continued):

Q Now I would like to have you designate on Defense Exhibit No. 12 with the letter "W" the part of the block which was used as a washroom.

A (Indicating).

Q How did you have merely one washroom and one latrine for the entire block or did each wing have one?

A Both wings used this one latrine which had 5 toilets in it and a piscoir.

Q And how about the washroom?

A The same thing is true with the washroom. Both wings used the same washroom. There were 12 faucets in there and there was a water trough under the faucets. It could have been around 4 meters long, about 14 centimeters broad and about as deep as up to my wrist here (indicating).

Q Will you estimate that in centimeters?

A It would probably be around 20 to 25 centimeters. I am using my hand up to my wrist to measure it because I could reach down to the bottom of it up to my wrist. The whole block was about 65 meters long and 8 meters across.

Q Now you spoke about delousing in the block, where was that conducted?

A This delousing was carried on in the open space here in

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the dayroom (indicating). All the prisoners were sent into the dormitory and would come out one by one and were examined by me, by the orderly and by several of their own comrades, and then when they were examined for lice, they stood in their shirts and underdrawers and in the front part of the dayroom they would put on their clothes again and then they could go about their business. Anyone who had lice on him would have to go to the washroom until the delousing was ended and then they were brought down to the disinfection room and to the bath. There they were again told to undress, were bathed and their clothing would be deloused. And for this purpose I always had fresh laundered clothes.

Q Now I call your attention to prosecution exhibit No. 5 which is the plan of Camp Flossenburg and I ask you to point out for the court block 19 of which you were blockeldest.

A (Indicating).

MR. MC KAY: Let the record show that the witness has indicated a block with the No. 19 in red letters near the entrance to the camp.

Q Now you spoke of the fact that after the delousing was completed in the block the men who had to be taken care of for lice were sent somewhere else for delousing. Will you show the court where they were sent?

A In this block the laundry was located.

MR. MC KAY: Let the record show that the witness has indicated a block with a figure 4 in the block and the words "laundry" in red as being the laundry.

A In the corner of the cleaning establishment--laundry cellar of this block, the delousing was located and here the bath was located which could be reached by going through the cellar.

Da 4452-10/1-1of-11

Q Did the delousing continue to be done there during the entire time you were blockeldest in block 19?

A The delousing for the people in my block was always carried out here except for one instance when it was carried out in the newly erected delousing building here.

MR. MC KAY: Let the record show that the witness indicates a block with a figure 24 in red and a line following as being the new block where his prisoners were deloused on one occasion.

A But this delousing building was not opened until the very last month and this new delousing building was so overfilled with new arrivals that we still had to carry out our delousing in the old place as before.

Q Now you spoke about distribution of food. Will you explain to the court how that was conducted indicating the place where the distribution was made upon Defense Exhibit No. 12 which you have already identified?

A When the weather was good the kettles of food were set up here outside the door of the block and the prisoners would line up according to whether it was "A" or "B" wing. They would pass by the kettles, receive their food and go back into the block. When the weather was bad and on days when the entire personnel of the block was present, the food would be distributed here in the corridor (indicating). The food for the night shift would be dispensed in the dayroom. The bread was also distributed in the dayroom area. The portions of food and the bread were piled up here on these tables which are marked here in this place as "MR". The people had to line up in front of the block in the evening for roll call anyway

(Gieselman - Direct)

and after they finished roll call, they would march past the tables, take bread and portions and then go into the dormitories with the food until the food was all given out, and the entire procedure was carried on in an orderly and quiet fashion until it was completed, unless the blackout would have to take effect because of an air attack, and then of course we had to rely on the honesty of each individual. Either he was a decent man and didn't go and get a second helping or else he was a scoundrel and stole.

Q Now during the time that you were blockeldest of block 19, will you explain to the court what if any measures were taken to separate prisoners who had lice and the like from the rest of the prisoners in the block 19?

A That was only a short period of time. At that time when the hundreds of Hungarian Jews arrived, the adjutant ordered that a row of beds be put aside in each wing and that these Jews should sleep in them segregated, and he ordered that barbed wire entanglements be put up between these beds and the rest of the room.

Q I now hand you a pen again and ask you to designate with a line the particular row of beds that were set aside by the barbed wire that you have just described.

A For this purpose a row of beds was set up which had formerly stood in a double line.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed at 1130 hours.)

(Whereupon the court reconvened at 1140 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel

of the prosecution are present with the exception of Colonel Dawson and Mr. Minter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Colonel Wilson and Major Cochran who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswald and Gisschel who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Proceed, Mr. McKay.

KARL GIESELMAN, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued):

QUESTIONS BY MR. MC KAY (Continued):

Q Mr. Gieselman, how long did this barricade remain in the block which you have just placed on defense exhibit 12?

A You can't really call it a barricade. I had to follow this order and I only used about one quarter of the barbed wire that was given to me for this purpose, and I merely drew the wire across the three beds which stood on top of each other. It wasn't the fact that the prisoners, the Hungarians, had lice, that wasn't enough to erect a barricade, and the prisoners would tear their clothes on the barbed wire whenever they tried to sneak through the wires, and I considered the whole matter nonsense anyway, and after 2 or 3 weeks, I removed the wires without saying anything to anyone and nobody ever asked me about it again.

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Q Mr. Dieselman, during the time that you were blockeldest of block 19, do you recall a man by the name of Rosenthal living in your block?

A I remember Rosenthal very well and not for the reason that he appeared here as a witness but for the reason that he came into the block with a lie. Although he was older, he smuggled his way into the block as an 18 year old. He had heard by rumor that people in that block got double portions and that they got sufficient food there and he came to the block with a transport which had arrived at that time. He introduced himself to me: I am a German and can't I have a bed alone for myself. That was a rather cheap request when he could see that people were lying two or three in beds and I denied him that request. In the evening we carried out a delousing process and the one who was absent was Rosenthal. I had people look for him but nobody could find him. When the reveille whistle was blown and the people went to bed, I had him searched for in the dormitory but he wasn't there. Then according to the rules I should have notified the camp clerk's office that a prisoner was missing and I was supposed to make a report about him because he might have escaped. As in all such matters I kept quiet about it because it was a principle of mine never to turn a prisoner over to the mercy of the SS. It was, so to speak, an unwritten law in the camp that one prisoner would never turn another prisoner over to the mercy of the SS. The only kind of people who did that at the camp were the mercenary ones and the spies--that type. In the morning at breakfast, although we only had coffee for breakfast, Rosenthal was there and I called him to account why he wasn't present at the delousing and by asking him direct and indirect questions, I found out that he had slept in

another block with his darling who had arrived with him in the transport. I have a right to maintain that because in the 14 days that he was there I was able to find out that he was "that way" and on this morning I gave it good to Rosenthal, I gave him boxes on the ear, right and left. I said to him, up to the present time we have been able to keep our block free of lice and I have no desire now to have the conditions damaged by a new arrival and that helped because after that he was at the delousing process. My clerk found out by checking the card index files that he was more than 18 years old and after 14 days he was transferred to another block. What he said here was not true when he said that I would run around from morning until night and beat the prisoners in the block including himself because the general condition of the people in my block was above reproach. That I will be able to prove later. The way his testimony sounded here is false, when he tried to make you believe that the barbed wire was not around the beds in such a way that the Jews had to sleep on top of the barbed wire in the bed. That is of course nonsense. He was trying to say here that there were not decent mattresses in the beds and blankets were missing, but of course I am not responsible for that. Nobody can blame or put the finger on me if the administration doesn't give us any decent mattresses but give you paper mattresses from which the wooden wool was missing. We had to organize and scrounge for everything we needed.

At any rate, I know that at the time the Jews arrived, I had scrounged at least 150 wool blankets from the laundry, and at the same time I gave every Jew a second coat so that he could cover himself up with it. Besides that, these Hungarian Jews

didn't work at all. They merely laid around in bed and later on the lively ones among them went off to work in the clothing room and the laundry. They sorted laundry there and they would carry clothes from one room to another and they were smart enough under these conditions to acquire for themselves anything that they needed. The witness also emphasized that I especially took it out on the Jews. Besides the fact that these Hungarian Jews were quiet, decent people, my development which I had behind me, tells a different story also. In Frankfurt, I went to a higher school. On an average we were 36 students in a class and 16 of these were Jews. I had social intercourse with all the Jewish families in Frankfurt and if I had not gone off to sea when I was young, I would have married a Jewish girl in compliance with my father's wishes. She was the daughter of an art dealer in Frankfurt. The Jews never bothered me. I even worked for a Jewish firm in Frankfurt. I was working there as a shipping clerk for exports to Russia and the Orient. When the war started and I went off to sea again, this Jewish firm kept up my salary, although they didn't have to do so. No Jew ever hurt me.

Q Mr. Gieselman, during the time that you were blockeldest of block 19, did you have any cases of men sick or injured in your block?

A On an average, I would have 40 or 50 of the men under my supervision in the hospital or in the convalescent ward and 20 of these were juveniles which the master of the hospital, Golts, kept for himself. The reasons are very easy to see, and the reasons for that have already been discussed here in court. I was not dumb enough to openly attack a man like Golts who had such

terrific power in the camp. I began to feel here in this courtroom what my silent resistance against Golts meant. The rest of the people in the hospital were workers from department 2004 who had squashed their fingers or injured themselves in other ways, and small ailments. Some of them had gotten pneumonia and then there were two of my boys in the hospital who had gone insane. One of them suffered on a persecution mania and the other one never stopped crying and then I had the flock fever cases. Any time I could send one of my boys into the hospital or into the convalescent ward, I was glad to do it because he would be well taken care of there, and didn't have to work. He could get out of working, and I would have room in my block for one more man.

The following died in my block in the entire 11 months: thirty prisoners. I have drawn these names out of the books which the prosecution has used as proof and my defense counsel will go into this matter in greater detail soon. Because I personally can't know these thousands of names, I would call all these boys by their first names, Gontek, Schmek, or whatever their name would be, but I couldn't keep all these foreign names in my memory, the names of all these Russians, Poles, etc., and then for the purpose of my defense here, I have made excerpts from these books. Colonel Shaw, the former prosecutor here, asked me in the course of an interrogation, how many cases of death I had had there. Quoting from my memory, I told him at that time, 35 to 40. Every day he asked me and I had to tell him that that included the whole year, the 11 months when I had the block and he laughed at me. I can prove here by means of these excerpts that I actually did have 30 and only one Hungarian Jew actually died inside my block. He came

to the block on the 23rd of November, 194- and on the 26th of November, 194-, he was found dead in his bed in the corridor. The prisoners brought him into the day-room and after a while he was taken into the hospital. Two of these other prisoners whom I have mentioned have also been in my block at one time or another, and the day that they died, their ages were like mine the first one was 14 months and 2 days older than 18 years old; the next one 9 months and 17 days older than 18 years old; the next one 4 months and 18 days older than 18 years old.

PRESIDENT: The court will adjourn until 1430 this afternoon.

(Whereupon the court at 1200 hours adjourned until 1330 hours.)

AFTERNOON SESSION

(Thereupon the court reconvened at 1345 hours)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Oswalt and Olschewski who are sick in the hospital and their interests are being take care of by their respective counsel. If there are any spectators in the courtroom who are expecting to be called as witnesses, will they please leave the courtroom.

MR. McKAY: Reporter, would you mark this defense exhibit No. 13 ?

(The document referred to was marked Defense Exhibit No. 13 for identification).

PRESIDENT: Continuation of direct examination Mr. McKay.

KARL FREDERICK ALOIS GIESELMAN, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. McKAY:

Q Mr. Gieselman, I hand you what has been marked defense exhibit No. 13 and would ask you if you know what it is.

A That is the list of the deceased about which I had begun to speak.

Q Mr. Gieselman, who prepared this paper?

A I drew it up myself and used as my material the books which the prosecution brought from Flossenburg here as proof.

Q Will you please put your name in the left hand corner, down here.

A (Whereupon the witness did as directed).

Q I notice that on the back of this exhibit is also a chart. Did you prepare that?

A Yes, I drew up this plan according to the results of my investigation of these books.

Q Will you place your name below that chart.

A (Whereupon the witness did as directed).

Q Mr. Gieselman, calling your attention to the face of this chart which has been marked for identification as defense exhibit 13, I would like to have you explain to the court where you obtained the information and how you obtained it which appears on that chart.

MR. HERKOWITZ: May it please the court, objection is made by the prosecution to the introduction of any testimony concerning that chart. The chart is a self serving declaration prepared by the defendant himself and as such is incompetent. Furthermore, the books themselves are the best evidence of the material therein contained.

MR. McKAY: May it please the court, the document which has been marked for identification, defense exhibit No. 13, is not a self serving declaration. It is merely a memorandum prepared by this witness following the examination of these books and is only a compilation bringing them together rather than to examine the eight volumes which have been introduced by the prosecution. It is introduced merely for the purpose of clarifying this witness' statements and is always open for the court to check this information against the books that are here.

PRESIDENT: How many names are contained in those books Mr. Prosecutor?

MR. HERKOWITZ: About 60,000.

PRESIDENT: Objection is overruled.

A As I already mentioned there are three of these which I have compiled here who according to their date of birth were over 18 years old.

Q Just a minute Mr. Gieselman, I want to clarify this for the court. Will you explain what the column to the extreme left which contains a row of figures means?

A The column on the extreme left contains prisoners' numbers of the prisoners in Flossenburg.

PRESIDENT: Just a minute Mr. McKay. The court feels that if you desire to introduce that in evidence the court will give it consideration right now before the witness endeavours to testify from the document itself.

MR. McKAY: Just one more question Mr. President.

QUESTIONS BY MR. McKAY:

Q Mr. Gieselman when did you prepare this chart?

A In the course of this trial when I came up and talked to my defense counsel.

Q And the figures and all of the items which appear on here in German are in your own handwriting?

A Yes.

Q Do you know who put these in English here?

A As far as I know the interpreting department did that.

Q For whom were those interpreters working at the time?

A I assume it was my counsel who authorized them.

Q In other words, these English translations were made in your presence for your counsel in order that he might understand this chart, is that correct?

A I cannot say at the moment whether I was present at the interpretation of it.

Q Do you remember what interpreter did that?

A I really don't know.

Q Are the figures in the German which are on the back of this in your handwriting?

A Yes.

Q Do you know who put the nglish on there?

A The same handwriting as on the other side.

MR. McKAY: At this time the defense offers exhibit D 13 which is a chart which the witness has identified as being his own handwriting in German, the nglish statements made upon the chart being made by the interpreter for his defense counsel in order that he could explain this chart to his defense counsel.

PRESIDENT: The court understands that you are offering this in evidence Mr. McKay?

MR. McKAY: That is right, sir.

PRESIDENT: Mr. Berkowitz, any objection?

MR. BERKOWITZ: May it please the court, the prosecution objects to this presentation at the present time until a proper basis is laid for its introduction. There is no evidence before the court as to what this list is, as to how it was prepared and from what information it was prepared or on what basis, nor what system was used by the man to prepare it and, until such basis be made, the prosecution objects to it.

MR. McKAY: May it please the court this document has been identified by the witness as being his own handwriting, he has testified that this list was prepared from the rolls of the camp, which has been introduced here in evidence as prosecution exhibit. He has explained that this is the list from which he has testified previously about the death of certain prisoners. As to the actual meaning of the various columns they will have to wait to see whether the court introduces it into evidence. For that reason I think the proper foundation had been laid for its introduction at this time.

PRESIDENT: Anything further Mr. Prosecutor?

MR. BERKOWITZ: Nothing further, sir.

(Dieselman - direct)

PRESIDENT: The court will receive defense exhibit No.13 in evidence and give it such weight as the court sees fit.

(The document heretofore marked defense exhibit No.13 for identification was received in evidence as defense exhibit No.13, is attached hereto, and made a part of the record).

PRESIDENT: The court will take a short recess in place.

(Whereupon a short recess was taken in place).

PRESIDENT: The court will come to order. The objection of the prosecutor on that matter is overruled.

QUESTIONS BY MR. McKAY:

Q Mr. Gieselman, I hand you defense exhibit No. 13 and I call your attention to a column of figures which is on the extreme left and ask you what those figures represent?

A The first column contains prison numbers of those prisoners whose names are given here, they are the same numbers that these prisoners carried in Flossenburg.

Q Now I hand you a pen and ask you to place above that column the figure one.

A (Whereupon the witness did as directed).

Q Now going from left to right, I notice the next column has letters in it. Will you explain to the court what those letters mean?

A The next column represents the nationality just as the books themselves do.

Q Will you mark a figure two above that column?

A (Whereupon the witness did as directed).

Q Now I notice that to the right of this column which you have marked two, a column which contains some names. Will you explain to the court what those names are?

A The third column includes the names of the prisoners in question.

Q Will you place a figure three above that column?

A (Whereupon the witness did as directed).

Q I notice to the right of column three another column bearing figures. Will you explain to the court what that is?

A The fourth column contains the dates of birth of the prisoners in question because these dates of birth were very important in selecting these prisoners because only prisoners up to 18 years old were with me.

Q Will you place the figure four above that column?

A (Whereupon the witness did as directed).

Q Now I notice another column to the right of the column where you have marked four containing figures. What does that column represent?

A The dates in the fifth column are the dates of death.

Q Will you place number five above that column?

A (Whereupon the witness did as directed).

Q Now I notice a column to the extreme right and ask you what that column is?

A In that column I have made five statements and the name of a dead man stands in front of each corresponding explanation.

Q Will you place a figure six above that column?

A (Whereupon the witness did as directed).

Q In order that the court may understand your diagram, I hand you prosecution exhibit 12 and I ask you where the prison number which you have referred to as column one appears in prosecution exhibit 12?

A In the first column where the numbers are written in ink.

Q Now will you explain to the court whether the letters which are shown in your diagram under column two appear in this camp roll book.

A They are also in the second column there.

Q I ask you whether the names which you have in column three of your diagram appear in prosecution exhibit 12?

A Also here in the third column.

Q Now I ask you where the date of birth which you have in column four on your diagram is shown in prosecution exhibit 12?

A They are also here in the fourth column. The only difference is that in the records there the place of birth is also given.

Q Now under column five, dates of death, where do they appear in prosecution 12?

A The death dates appear here either in the fifth or sixth columns where the crosses are.

Q Is that where you obtained the information which you have in your column five?

A Yes.

Q In preparing your chart, how many books did you include in your compilation of figures?

A There are eight books here. Two of them refer only to women. I naturally didn't have to use the books of the women for my work. I looked through all the other books but I didn't look all through 60,000 numbers. I only looked at the numbers which were designated with a cross because I was looking for deceased people. For the time being, people who are alive do not interest me. That was a lot of work but because I didn't have any witness to appear for me I had to undertake this work for my own defense.

Q Now Mr. Gisselman, all of the prisoners which you have listed here then on your plan which is defense exhibit No. 13, all of those prisoners are shown as dead in the camp rolls which you have spoken about?

A Yes.

Q Mr. Gisselman, can you give the court any idea of the date that you became block eldest of block 19?

A The juveniles came to this block at the end of May or the beginning of June.

Q Of what year?

A 1944.

Q How long did you remain block eldest of block 19?

A Until 20 April 1945.

Q Can you give the court any idea of the number of deaths amongst juvenile prisoners for the month of May 1944?

A I didn't have any juveniles with me in May, that began in June.

Q All right. How many juvenile deaths are shown on the rolls of the camp for the month of June 1944?

A No case of death occurred among 600 personnel.

Q I am calling your attention to the chart which you have on the back of defense exhibit 13 and notice that you have a column here with numbers in it. Will you explain to the court what that column means?

A Column one represents the month.

Q Will you put a letter A above the column you have just described?

A (Whereupon the witness did as directed).

Q I notice to the right of the column which you have marked with letter A, a column of figures in it, will you explain what that means?

A The second column indicates the order.

Q Will you mark that column with the letter B?

A (Whereupon the witness did as directed).

Q I notice that to the right of column B there is a column with figures. What do these figures represent?

A The ninth column indicates the average strength of the personnel in the block for the month.

(Cieselman - direct)

Q Will you mark a letter C above that column?

A (Thereupon the witness did as directed).

Q To the right of the column with the letter C at the top I see another column with figures. What do those represent?

A The numbers in the fourth column represent the mortality, the number of deaths in the month.

Q Will you place letter D above that column?

A (Thereupon the witness did as directed).

Q At the extreme right I notice another column with figures. What does that represent?

A In the last column I have calculated the percentage of mortality in the month in question.

Q How did you determine that percentage?

A I took the average strength of personnel for the month and compared it with the number of people who died in that month.

Q Will you place letter E above the column which represents the percentage which you have just told us?

A (Thereupon the witness did as directed).

MR. McKAY: Let the record show that the counsel has put on defense exhibit No. 13 letters to explain the columns which the witness has just described before the court to explain what each column represents, that such marking was made with the approval of the prosecution.

Q Mr. Gisselman, for the month of June 1944 what was the total number of deaths among the juvenile prisoners which you found in the camp rolls?

A None.

Q What was it for the month of July 1944?

A One.

Q How many prisoners were there in block 19 during that month, the average number of prisoners during that month?

A 600.

Q For the month of August 1944?

A 600 prisoners, two of them died.

Q For the month of September 1944?

A 650 prisoners. No incidents of death.

Q For the month of October 1944?

A 650 prisoners. No deaths.

Q For the month of November 1944?

A On an average 950 prisoners, eight deaths.

Q In December 1944?

A On an average 950 prisoners, five deaths.

Q For the month of January 1945?

A On an average 900 prisoners, three deaths.

Q February 1945?

A On an average 800 prisoners, six deaths.

Q March 1945?

A 850 prisoners on an average, three deaths.

Q For the month of April 1945?

A On an average 850 prisoners, two deaths.

Q Did those deaths actually occur in the block or did they occur somewhere in the camp?

A All these people except one single one died in the hospital. This one was a Hungarian Jew who I designated here in my remarks as coming to Flossenburg on the 9 November 1944. He came to block 19 on the 23 November 1944 and on the 26 November 1944 he died. This transport came from Hungaria and had to cover thousands of kilometers on foot. They arrived in the camp completely exhausted and one of these exhausted people was the one who died here. I made another notation here, further down. According to the books this prisoner had been quartered in block 20 but I still wrote down information about him here because he belonged to this age, just like

the other three which were mentioned before. By looking at these statistics you can see the following: that in June I had a one-sixth mortality percent, in August a one-third percent, in November nine-tenth percent, in December half percent, in January a third percent, in February three-quarters of a percent, in March three-eighth percent and in the last month in April, one quarter percent.

PRESIDENT: The court will take a short recess.

(Whereupon a short recess was taken).

PRESIDENT: The court will come to order.

QUESTIONS BY MR. McKAY:

Q Mr. Gieselman, during the time that you were block eldest of block 19 in Flossenburg, what blocks had the reputation of having the highest mortality rate?

A 21, 22, 23.

Q Will you explain why these blocks had that reputation?

A The fact that all new arrivals went into these blocks and the sick ones remained there.

Q When were blocks 20, 21, 22 and 23 used as quarantine blocks?

MR. BERKOWITZ: May it please the court, I object to the question as being irrelevant. The testimony here concerning the defendant concerning block 19 and any testimony concerning blocks 21, 22, 23 and what went on there, a block with which he had no connection, is irrelevant.

MR. McKAY: May it please the court, the record shows that the present witness on the stand was block eldest of block 19, that he is charged under the charges and specifications of being a party to a common design which had as its purpose the torture, abuse, mistreatment and killing of prisoners. In order to determine this man's conduct as a block eldest it is necessary to have some comparison between the deaths which occurred in his block and in other blocks

so that the court can have a clear picture as to just what deaths he can be charged with and how they compare with other deaths that occurred in the camp with which he had no connection, which were as will later show due to other circumstances over which no one in concentration camp Flossenburg had any control whatsoever, but with which the prosecution is seeking to charge these accused with their deaths because they occurred in Flossenburg. But for this accused it is important that the court have a clear picture as to the conditions which existed in his block in comparison with the worst blocks in the camp.

MR. BERKOWITZ: May it please the court, the present accused is charged with participating in the common design by mistreatment of prisoners in block 19. There is no evidence of his mistreatment of prisoners in any other block. What took place in block 1 or what took place in 23, is immaterial. The prosecution objects to it as irrelevant and any comparison with those blocks would be immaterial.

PRESIDENT: Are you referring to the particulars of the charge Mr. Berkowitz?

MR. BERKOWITZ: I am referring to the evidence presented to the court.

PRESIDENT: You just stated this particular accused is charged with so and so?

MR. BERKOWITZ: I mean that the evidence shows that he has been guilty or has been charged by various witnesses with offences which occurred in block 19 and his treatment of the inmates in block 19.

PRESIDENT: Then the court understands you were referring to the evidence and not the particulars of the charge? The objection is overruled.

QUESTIONS BY MR. McKAY:

Q Now, Mr. Gieselman, did you ever make any kind of comparison of the deaths that occurred in block 23 with the deaths which occurred in your block 19?

A I drew up this second sheet just like the third one because the death cases involved juveniles.

MR. McKAY: Will you mark this defense exhibit No. 14?

(The document referred to was marked defense exhibit No. 14 for identification).

Q Mr. Gieselman, when you refer to the second sheet are you referring to a paper which has been marked for identification, defense exhibit 14, for identification only?

A 14?

Q 14?

A Yes. I drew up this second list, defense exhibit No.14, aside from the list which I have already drawn up. By looking through the books you can find more incidents of deaths among the juveniles. In order to avoid any misunderstandings from the very beginning, I drew up these two lists here and I put down the names of all the dead juveniles who were not in block 19 and by this occasion I naturally drew comparisons and in the three months when these juveniles were in 23, 39 died and 30 died in the eleven months with me. That of course is not the mortality in 23. That block had considerably more. I only interested myself with the juveniles. That was all I was concerned with. The juveniles here in question all carried numbers above 45,000 and 80,000. By looking at the books you can see that they came in transport from Sachsenhausen on the 6th February 1945 and from a transport from Gross Rosen on the 13th, and on the 25th February 1945 these transports were transferred wholesale as they went on to Buchenwald, and Ohrdruf, and Natzweiler, and as I already mentioned the sick people in this transport remained at Flossenburg and these people stayed in block 23 where they first arrived. It will be proven later that after the 15th January no more juveniles came to block 19 because the block was overcrowded and that is as far as this list goes.

Q Are the figures on that list your own handwriting?

A I drew up these lists just as I drew up the other one which was already been presented under the same conditions and in the same fashion. The only difference here is that I left away the dates of birth. I also put down the same remarks, the corresponding remarks on this list and they were translated by the interpreter of Mr. McKay here who is the gentleman sitting over there.

Q When was this prepared?

A Exactly the same time that the other list was drawn up.

MR. MCKAY: At this time the defense offers in evidence defense exhibit 13 which is the list prepared by this witness of juveniles who died in block 23 who had been brought in on transports and which were never placed in his block. During the time that they —

PRESIDENT: Verify that number please?

MR. McKAY: Pardon me, No. 14.

PRESIDENT: The record will show "indicating No. 14".

MR. BERKOWITZ: May it please the court, the prosecution objects to the introduction of this list in evidence. In the first place it is incompetent and irrelevant. I have stated before what happened in block 23 where this man was not stationed, secondly, it is incompetent to the acts performed by him in block 19. There is no basis for the statement or no foundation for the statement that these people who are here listed were never in block 19 except the gratuitous statement of Mr. McKay, therefore, it is objected to at the present time.

PRESIDENT: The objection of the assistant prosecutor, Mr. Berkowitz, is overruled. The court will receive defense exhibit No.14 in evidence and give it such weight as the court sees fit.

(Gieselman - direct)

(The document heretofore marked defense exhibit No.14 for identification was received in evidence as defense exhibit No.14, is attached hereto, and a part of the record).

MR. McKAY: Would you mark this defense exhibit No. 15 please?

(Whereupon the document referred to was marked defense exhibit No. 15 for identification).

QUESTIONS BY MR. McKAY:

Q I hand you what has been marked for identification as defense exhibit No. 15 and ask you if you know what that is?

A Defense exhibit No. 15 represents the juveniles, all the juveniles the names of whom I have drawn up who were in block 19. I emphasized the dead ones and, to be specific, there are eight cases. I put down their numbers, their nationalities, their names, date of birth, date of death. I have drawn these up and I put down the remarks here which I took out of those books. The first incidents died because of special treatment. The court is well acquainted with this treatment what that means.

Q Explain what that term "special treatment" meant?

A Special treatment means that the party in question was executed, either hanged or shot to death. The second incident, also special treatment. The third one came on the 10th November 1944 from Hersbruck and naturally he came to the hospital and not to the block. The next one was quartered in block 7, and the next one came on the 31st May 1944 from Gross Rosen to Theresienstadt. He did not come to Flossenburg at all. He came to block 17, was already sick when he came from Theresienstadt, and the first day of the third month 1945 he died, and on the day that he died he was already three months and fourteen days older than 18 years old. The next to come was on the 12th April 1944 from Auschwitz. These from Auschwitz, these juveniles, did not come to block 19 until January 1945 but

these two had already died before and therefore they could not have ever come to my block. The next one, the last one, came on the 26th January from Kronsdorf and went into the hospital immediately. I have given all this information because here I didn't want anyone to say afterward that these people died under me. The remarks which accompany these ones are not my own remarks but they are remarks which were taken out of the books and they can be checked out of these books.

Q Now, Mr. Gieselman, do you know who made the English translation on that document which has been marked for identification, defense exhibit No. 15?

A It is the same situation as with the other two. The handwriting is the same, it is the same gentleman.

Q Now, Mr. Gieselman, when you figured in the total number of deaths which you have shown on the chart which appears on the back of defense exhibit No. 13, did you include these people which you have listed on the document which has been marked defense exhibit No. 15?

PRESIDENT: Just a minute.

MR. BERKOWITZ: Objection to this as it is leading and suggestive.

PRESIDENT: Objection is sustained.

QUESTIONS BY MR. MCKAY:

Q Well now Mr. Gieselman, will you explain to the court the relationship between the names which you have listed on defense exhibit No. 15 with your other compilations which you have presented before the court?

A No name appears here on any one of these three sheets twice. The only thing that these three lists have in common is the fact that they concern themselves with juveniles. The first list was drawn up in percentage according to the other lists that involves block 19. The other two lists only are concerned with block 19 due

to the fact that I am accused here, otherwise, these people have nothing to do with block 19 at all.

Q Did you ever have anything to do with the juveniles who came into block 23 during the period beginning January 1st 1945 until the camp was evacuated in April?

MR. HERKOWITZ: The question is objected to as leading and suggestive.

PRESIDENT: Objection is sustained.

QUESTIONS BY MR. McKAY:

Q Mr. Gieselman, you stated a little while ago that no juveniles came into your block after January 1945. What did you mean when you said that?

A I meant to say by that that those juveniles which I have designated on the list as having arrived on the transports that none of them ever came to me, they were the ones that went to block 23 and I never had anything to do with these people.

Q During the time that you were block oldest in block 19 up until January 1945, will you explain just what juveniles actually left in your block?

A I can only give you a general explanation in that regard by saying that juveniles who had a number higher than 45,000 did not come to my place, in other words, after the 15th January no juveniles came to me any more.

MR. McKAY: At this time the defense offers in evidence defense exhibit No. 15 which is a list prepared by this witness of cases of people who died in Flossenburg, juvenile prisoners who died in Flossenburg with which he has no connection but which are covered in the total deaths included in the death figures which the prosecution has introduced into evidence.

MR. HERKOWITZ: The prosecution objects to the introduction of this exhibit as irrelevant and incompetent for the same reasons as heretofore stated concerning the previous exhibit.

MR. McKAY: May it please the court, I have stated before this particular accused now on the stand was in charge of juvenile prisoners in Flossenburg concentration camp, that under the charge and specification on which this particular man is being tried he can be held responsible for the death of all juvenile prisoners, and he now seeks by this evidence to point out to the court what specific juveniles he is responsible for and which he contends the court can attribute to him if the court sees fit to charge the death of juveniles to him because of the fact that he was in charge of the juvenile block. There is no such intention by the prosecution that he is only charged with the incidents which have actually been related here, but the prosecution seeks by introducing these individual cases to ask the court at the conclusion of this case to say that this man was in charge of juveniles and he can be held responsible for the death of all juvenile prisoners in Flossenburg. The court must determine in its final determination of this case the responsibility of this man by reason of the position he held, namely, block eldest of block 19 which has been shown to be the juvenile block.

PRESIDENT: Mr. Prosecutor, anything further?

MR. BERKOWITZ: Nothing further sir.

PRESIDENT: The objection of the assistant prosecutor is overruled. The court will receive defense exhibit No. 15 in evidence and give it such weight as the court sees fit.

(The document heretofore marked defense exhibit No. 15 for identification was received in evidence as defense exhibit No. 15, is attached hereto, and a part of the record).

PRESIDENT: The court will take an half hour recess.

(Whereupon the court recessed at 1500 hours).

MR. McKAY: May it please the court, I have stated before this particular accused now on the stand was in charge of juvenile prisoners in Flossenburg concentration camp, that under the charge and specification on which this particular man is being tried he can be held responsible for the death of all juvenile prisoners, and he now seeks by this evidence to point out to the court what specific juveniles he is responsible for and which he contends the court can attribute to him if the court sees fit to charge the death of juveniles to him because of the fact that he was in charge of the juvenile block. There is no such intention by the prosecution that he is only charged with the incidents which have actually been related here, but the prosecution seeks by introducing these individual cases to ask the court at the conclusion of this case to say that this man was in charge of juveniles and he can be held responsible for the death of all juvenile prisoners in Flossenburg. The court must determine in its final determination of this case the responsibility of this man by reason of the position he held, namely, block eldest of block 19 which has been shown to be the juvenile block.

PRESIDENT: Mr. Prosecutor, anything further?

LT. BERKOWITZ: Nothing further sir.

PRESIDENT: The objection of the assistant prosecutor is overruled. The court will receive defense exhibit No. 15 in evidence and give it such weight as the court sees fit.

(The document heretofore marked defense exhibit No. 15 for identification was received in evidence as defense exhibit No. 15, is attached hereto, and a part of the record).

PRESIDENT: The court will take an half hour recess.

(Thereupon the court recessed at 1500 hours).

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PRESIDENT: The Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson, all the personnel of the defense are present with the exception of Major Coding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Oswalt and Olschewski who are sick in the hospital and their interests are being taken care of by their respective counsel.

If there are any spectators in the court room who are expecting to be called as witnesses, will they please leave the court room?

If it please the court, a new reporter has to be sworn.

PRESIDENT: The court has appointed Mr. Peter L. Di Curti as reporter. He will be sworn.

(Thereupon, Peter L. Di Curti, U. S. Civilian, was sworn as reporter.)

You may continue with direct examination, Mr. McKay.

QUESTIONS BY MR. MCKAY

Q Mr. Gieselman, will you explain to the court the conditions in Flossenburg as you knew them during the time that you were block eldest of block 19?

A I shall describe to the court, briefly, Flossenburg as I knew it and as I have seen it. To make it understood, however, I have to touch the years that are not covered by the charge sheet, shortly:

You can divide Flossenburg, from the year 1938 until the end, into the following four periods, according to my opinion:

From '38 until '40, the first period, the food was excellent cuisine and you could buy all the things that you could possibly think of in the canteen. From a button to butter. Nevertheless, this camp in

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which we Germans lived alone, at that time, was hell. The camp was reigned, at that time, by the old SS which I know as the so-called hall protection. This hall protection was selected by Hitler from the worst of the people. In the country these SS men were recruited out of farmers helpers who were too lazy to work. Chicanery, as it happened, is toowell known as to describe it here again. The rate of death at the time from '35 until '40 was approximately 2,000.

The second period is in the years '41 to '42. The first foreigners arrived in camp at this time. At first Poles and later on Czechs.

The SS, at that time, lost their teeth trying to bite into those young Poles who were full of resistance. They could beat up these Poles as much as they wanted to. These Poles wouldn't be influenced by anything. The result of this was that the rate of work was considerably reduced.

The food at that time was good. It was enough. It was sufficient, but not so many things could be had in the canteen.

The general treatment, as far as brutalities were concerned, and violations, was not asbad. During this period of time we had about 1000 dead people.

The next period covers the year 1943 until the middle of '44.

We old concentration camp prisoners thought that this period was a period of convalescence compared with the periods we had been through.

Q When you refer to we old prisoners, what do you mean?

A When I say that I mean those prisoners who had gone through everything since 1936 and 1937, or prior to that, and who had to suffer under the old SS as we had to. And when I use the term convalescence or else sanitorium, I only want it to be understood by everybody that it actually was like that for us.

(Dieselmann-direct)

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During th s period and prior to that there had been a trial against the SS which showed how the SS thought how to run the camp. SS co mmanders and hi;hor SS officers were sentenced before this SS court to considerable sentences in penitentiaries. The commander of Lichtenburg stated, in this trial, and also a very well known report roll call leader testified there. They all had been accused because of brutalities towards prisoners and were sentenced because of that. They all testified that according to their opinion they could only run a camp properly if the prisoners had differences among themselves, could not get along. They activated these differences a ong prisoners in camps by bringing up those triangles. They started in Buchenwald. ted and green triangles. It was amazing how they succeeded in inciting the reds against greens and the green against the reds and made them fight against each other. There we e and still are pris ners who fell for this and on their own incited others, when in camp one had to feel as low as the next man. I find that out now when highest and prominent persons as well as persons in medium and low positions were brought into camps where the Nazis are being brought into now, where all the color is gone and one man picks butts as well as the next man and the one man eats from the garbage can as well as the next man does. I lived in these camps for over 8 months and what I found out here I have known in the concentration camps, because it was no different.

There was no reason at all for one man to fight against the next man and quiet people did not take part in these m nuevers. It is not decisive in the camp where the man had be n or why he had been sent the e but only hi.self is decisive as man. The peculiar thing was that the intellectual people such as professors, savan s, doctors a d what have you—those we.e the first ones who met death. The reason for that of course was that they had been leading a good life on the outside. They had a chambermaid and a cook and perhaps a house servant. They

had been wealthy and had been living well. In camp, of course, all that was not at hand. Add to this the famous treatment and such a man would sink in a hurry, without any help and left alone. Peoples from the workers class who had been used to bad conditions, who had to work themselves—they survived and could take the whole thing much easier. Add to this the personal conduct. If someone could easily be scared by the SS he was lost right away. Or else he got diarrhea. Instead of holding back on his food he would eat two or three potfulls of food and of course had to die. Others did not keep clean. They were morally so depressed that they did not care to do anything for themselves any more. They also had it bad.

I personally conducted myself so that the SS could not even touch me in the first place.

In the years of 1941 and 1942 the SS Sergeant Soehner beat me up on every occasion whenever he could, with the exception of Sunday and holidays. That is the second Lieutenant Soehner. All of that could not disturb me at all. On the contrary the more he beat me the more I calmed down. I did not even hate the SS being so calm and sure of myself. I only despised the people who conducted themselves in this manner because I was used to knowing other things about German Officers than the way these tin soldiers acted.

The years 1943 until the middle of 1944 showed better conditions. The reason for that was that the beast of Flossenburg, Second Lieutenant Soehner, was transferred. He has already paid for his bad deeds. A hand grenade which he couldn't handle tore off both of his hands and his lower jaw. He will be in some hospital today.

The old SS was sent away and the SS reserve arrived. People from all kinds of professions. People who brought along some certain understanding with them. That, of course, helped to better the general

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conditions. At the same time, the stone quarry, the work in the stone quarry was discontinued. The very stone quarry that caused us so much pain in wintertime because of the cold and hardship of work. The armament factories were activated and with those the prisoners had a chance to work under a roof. They were not subjected to the open air any more so that was better also.

Now comes the contrast, of course, which was the food. The food reduced tremendously during this period. Nothing of a right sort could be obtained or bought anymore in the canteen. The things that had been made up on one side had been lost on the other.

Nevertheless, I do have to emphasize that from the year '38 until '44 the rate of death in the concentration camp was, I should say, for such a camp, almost normal. If I expressed myself by saying normal I mean that the rate of death was according to our knowledge as we knew it from the concentration camps at that time. I do exclude all the executions, shootings, hangings, etc.

And then comes the 4th periodof the camp of Flossenburg, and that is the most terrible period. From the middle of '44 until the end in '45.

The camp, at that time, was definitely overcrowded. At that time nothing was to be had any more for the camp. No brooms, no cleaning material, no clean clothes, all of these things were just gone. And new arrivals came after new arrivals, from outside camps or camps which had been evacuated. They were just thrown into the camp. The gates were locked, the doors were locked and they were told, "Now see how you can get along." Only those SS men went into the camp who had to go inside under all circumstances and who definitely had business in there. Other than that noone else would enter any more.

We did not receive any help from the administration or from the competent authorities. The whole camp was loss with the exception of

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lock one, two, th kitchen and block 19.

Each block had unemployed people, and outside of those who were unemployed, there were about 100 to 150, with the exception of the quarantine blocks in which there were far more sick people and weak people. These people were not actually sick as a medical doctor would see it, that is their organs were in order. However, the whole man was just jacket and pants. Under no circumstances could a man like that recover when he received the food as we received it from the kitchen, from Kirsammer. On the contrary they died because of the raw food and of the uneatable food.

We would tell the camp leader about the things we needed or about the necessary items needed in the camp. He would just shrug his shoulders and say, "I have nothing."

Kirsammer, for instance, would cook turnips in the kitchen, which normally would be used for the feeding of animals. Or else he would brew some kind of a food there himself consisting of shredded radish and beets. If you entered the kitchen in the morning and took the lid off of a pot where he was boiling radishes, tears would run down your cheeks.

The whole hospital territory, blocks 18, 17 and 16, including the hospital where all the doctors were fighting a battle which was in vain. Might there have been said whatever they wanted to say in this witness chair against the doctors, these doctors were in no situation whatsoever to fight this mass dying as was at that time in the camp.

I just want to describe how the Hungarian Jews arrived in camp after they had marched 1,000 kilometers. At first, women, children and men were separated. The women were quartered in the stone quarry. The men, as usual were given a bath, deloused and were clothed. While this bathing was going on dozens of people were lying on the floor in the

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bathroom either dead already or else dying. People who had dragged themselves into Flossenberg and then had collapsed. Then all of these people after they had received clothes were sent to the laundry. I also took a look into the laundry. There were also people on the floor who were not able anymore, to stand up, or else there people who were dying. All of them were weak and starved. Those people were supposed to receive food in the laundry. Food pots were handed out. Then the first six vessels full of food were brought and carried into the laundry. All of these people were starved and those who could move were just one crowd and all of a sudden they attacked these food vessels and before I knew it I was sitting in the middle of the soup and everyone was on the ground like animals licking the soup.

Those are pictures you will never forget in all your life.

Later on this mess was pushed back a little, a barricade was put up and they were let out one by one and those who were able to walk received their food from the vessels and to those who were lying around the food was brought. Many a man who was eating in the laundry that day ate himself to death because human beings in this condition should be fed very slowly.

I should like to briefly touch the subject of the camp administration during all those years. We had four camp commanders during all that time. Most of them came from the SS as I have described it. This word SS meant, during the times of Hitler, Fight Protection Squadron. Later on Hitler took the old Germanic insignia of victory because it looked like an SS insignia and gave it to the SS.

The first commander was Weisenborn, the son of an habitual drunkard from Frankfurt-Am-Main. He had grown up without a mother, was then a guard in a prison in Kiel. Then, of course, took the chance to be promoted in the SS. He took fits of rage and he was such an animal as we had there seldom. Finally he committed suicide. He shot himself to death.

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In connection with the investigation conducted of the commander of Buchenwald, Koch. The shot which Weisenborn fired through his own head helped Koch to live a few more years. Later on he was condemned, by his own SS for embezzelment and other things, to death.

The next commander was Kuntzler. Kuntzler was a former sergeant, staff sergeant, from the Army of the Weimar Republic. When he arrived he gave us the impression of being a soldier and all of us had silent hope that he would be a real officer. Three or four weeks later he had pushed to the ground already by the rest of the SS. He could hardly be seen any more, and whenever you saw him he was drunk.

The next commander was Sille. Sille who had been a baker entered the SS as a recruit and later on became the commandant. A small man with the gestures of a great man. Not at any time could a prisoner dare to address him. He would have jumped into his face.

The next man was Koegel who has been described here previously as a man who had been punished before was to say with one word an animal, beast. He was for himself only. The same way he conducted himself towards the prisoners he conducted himself towards his camp leaders and his SS. An equally bad man at that time was the man who was always present, Baumgartner, the Adjutant. Baumgartner was at least a man who could read and write. But he was the man who dodged every service with a weapon in his hand. Any time a drafting commission arrived there he had either rheumatism or was walking on a cane. After the commission had left he was healthy again. I don't think that there was any prisoner at all who had not at one time or other received a beating by Baumgartner with his fists.

An equally honorable man was the political commissar Fassbender. Fassbender was sent to the concentration camp as that official and he was sent by the district attorney for the complaints of the prisoners. He was there for the complaints of the prisoners. After the Chamber of

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Justice had handed out the various sentences in that manner they sent an official to each camp to sort of protect the prisoners fro any such violations. This job, of course, was in all other concentration camps, but I took note about Flossenburg. It was used just in a contrary manner as it was intended to be. H_ himself took over the political section in Flossenburg. He himself had been an SA leader and received then an SS rating of First Lieutenant. The decisions of any prisoners were in the hands of this man. I only know of two who have been released. One of them was the man who went with Fassbender as his hangman. A truck on which was mounted a gallow in which they drove out into the public to hand people. His name is Moser. He was released to the Gestapo in Nuremburg.

An interpreter whose name I don't know anymore was also released to the Gestapo by recommendation of Fassbender. I don't know his name any more.

There was another man by the name of Schober, Max, who was in charge of the stone quarry. He unloaded his conscious tremendously in the stone quarry and his honorable successor was Huettige.

The administrative leader Brenneis the predecessor of Kirsammer. He had all kinds of means on hand but at that time the food was good and therefore I can't say anything reproaching about Brenneis. He was a mental nil, but that he couldn't help.

At the same time we had three camp leaders. The first one was Aumeier. He was a man who was shunni g work. de didn't like his profession any more and joined the SS. As small as he was, he was a small man consisting of skin and bones, as terrible he was.

The man who came after him w s Soehner whom I have already described. Soehner was a man without any inhibitions. When I say that he beat me up daily with the exception of Sunday and Holidays I want to state that he had different things to do on Sunday and Holidays. He

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held his usual courts in the orderly room on the Sundays and holidays. In other words he had one detail after the other come in and beat them up. It was an explainable thing many people ran into the wire because of desperation.

I am describing one case. The case of a barracks commando. I can't quite remember his name now. This detail had received a bucket of marmalade from the SS. It was forbidden for the SS to give anything to prisoners and the prisoners were forbidden to take anything from the SS. This detail had done something inside of the SS barracks and had received this marmalade as a gift. The Capo was Bruno Holski, that was his name. He distributed this marmalade among the prisoners and one of the SS spies, whose names have been mentioned here already, talked about it.

This normal thing was, of course, something for Soehner so that he beat up the whole detail on Sunday, including the Capo. The Capo was supposed to squeal on the SS man who had given him this bucket of marmalade. He refused again and was beaten up again. Finally he ran away from Soehner. He ran up behind block 7 and asked the guard who was there to shoot him to death. The guard at this tower did not shoot. Holski ran over to the next tower. He climbed into the wire and asked again for it, and then he was shot to death. Soehner who had suddenly missed Holski went over and kicked Holski and said, "That pig is dead."

That was Soehner.

The successor was Fritsch. Fritsch is a shipping man, former shipping man, from the Danube. He traveled on the boat of his brother along the Danube to the Black Sea. I do not have the proper names to describe Fritsch in his moral attitude and conduct. He loved to sit around the prisoners' office for a half hour at a time and tell obscene stories. He was always right and he was dumb as hell. A page written

by his hand contained 30 to 40 mistakes in spelling, not to talk about his handwriting.

Now you have to also mention it, in connection with this leader's corps, and I said leader's corps, the learder Ring. Ring, who was called the Jesus of the troops, by his own troops, was in charge of the instructions given to the SS men and to the new arrivals. Ring is guilty of having incited the new arriving young SS. In his cosmopolitan instructions he gave to these young SS men who arrived-- he told them how to shoot us, what terrible people were inside the concentration camp. He warned them always to do their duty and not to talk to anyone of them, and how they were to conduct themselves as far as shootings near the wire were concerned and as far as their conduct towards us was concerned. I myself heard the instructions he gave in the movie house while I was in the operator's box listening to these instructions.

These young guards, who had been brought there whenever the old ones were not trigger happy any more, were poisoned by him right a way.

Adding to this, I have to talk about the doctors. Doctor Tedmer was one of them, who disregarded any prisoner. Doctor Schmabel was always drunk.

That was the leader's corps in Flossenburg and today I am accused of having entered the common design with them.

Talking contemptfully about these people I do have to do one man honor, and that is Doctor Bader. This Doctor Bader and his wife are being honored by any prisoner of any nationality or prisoner of any kind. He had to leave his job too soon, unfortunately, and was sent to the front lines.

So much for Flossenburg.

I should like to explain the different triangles.

(Gieselman-direct)

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First, one camp had the so called red triangle. If the po nt of the red triangle was pointing down, that meant Protective Custody Prisoner. There was the red triangle with the point up. There was a so called SA with Protective Custody Prisoners from the Wehrmacht. There was the green triangle with the point down. That was the so-called Preventive Prisoner.

I should like to correct myself here. In the beginning I stated that I had a green triangle with the point up. I had a green triangle with the point down. I was a preventive custody prisoner.

There was a black triangle that meant not socially fit for the Reich. There was a brown triangle which meant not socially fit for the community. There was a purple triangle and those were the bible searchers. Blue triangle for immigrants. Pink triangles for the homo-sexuals. But because the pink triangle and the red triangle could be easily mixed up when it got dirty during work, they later on received a red triangle with the yellow stripe over it. If no yellow material was at hand they also put a black stripe across it. Then there was the red triangle with another yellow triangle above it, sort of a star. Or a green triangle with another yellow triangle over it like a star. Those were Jews. Later on they simplified it and merely gave a yellow stripe to the Jews without a triangle.

All those prisoners who were these triangles just described by me were in camp without having had any trial.

There was only one catagory--the green ones with the point up. Those were the so-called security prisoners. Those Security Custody Prisoners who only arrived in camp in '43 were the only prisoners who had been sentenced by regular court and sent to concentration camp for their security custody.

Names such as politicals, or red ones, or green ones, or habitual criminals were only inaugurated by the SS Police.

(Gieselman-direct)

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It was necessary for these people to tell a man, "You criminal."

I described the leaders here, the leader group and I do have to state that I do not hate these people and I do not hate these people here because I am much to calm and too sober a man as that I would know hatred. All I can do is show contempt for them. And the small people who just ran along in this carnival don't mean a thing to me.

Those small men come in three categories:

The first believed in their magic until the end. You have to feel sorry for them.

The second, they were smart enough to realize that it was going to end but kept their mouths shut because of fear. You have to feel sorry for them too.

And the rest were of such a high capacity that they didn't know what was going on at all.

I don't know where I could have entered a common design with these people. I still don't know how those people got there. When I hear them today they never did anything, they were never there, but when you saw them at the time they all yelled Heil Hitler. I look at them just as I look at the man who locks the prison for me. He is there. I am on the inside and he is on the outside.

If the court and my defense counsel should give me an opportunity now, I should like to talk about the prosecution witnesses. The witnesses who accused me.

PRESIDENT: Proceed.

DEFENSE COUNSEL: Proceed.

ACCUSED GIESELMAN: For one thing I was accused by Goeltz who was here on the witness stand. Goeltz, who introduced himself to the American Officer who took over the camp of Flossenburg under a wrong name. And he is the man who testified here. I myself, nor others who had known him much longer than I had, ever heard the name Pierre Bertram.

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nor did we ever hear that he had been a Frenchman. Others have described Goelts's standing in the camp. I do not have to re eat th t. The funniest thing was that I named Goeltz to my defense counsel as a defense witness. For the simp e reason th t Colonel Shaw had mentioned that he had accused me of this thing with the broken jaw I thought that Goelts w s the best witness in favor of me. Because Goelts was the first man who told me when I came into the hospital that this young man does not have a broken jaw and when the boy returned three weeks later to my block Goelts was present also. I said, "That is the man with the broken jaw." Goelts said, "He never had a broken jaw." And when I asked the boy himself, and he couldn't understand that much German, and he said that he had not had a roken jaw.

The real thing was like this: The Hungarian Jews from "A" Wing called me over to "A" Wing. They introduced to me a small Pole who always chased them away from their tables and their designated beds. It was the young Pole who had been reported to me, because of that, repeatedly. Again I reprimanded him and wanted to slap him with my flat hand in the ear. It was the usual thing that they wouldn't wait to get one but they would run away and, of course, I, as an old man with 50 years, wouldn't run after them. And this small Pole jumped away under the table. He yelled like hell. I told him to come back, that I wou dn't harm him. He came out and up here he was swollen. He must have jumped against the table with all his might. I myself sent him to the hospital to get something cold on there so the swelling would reduce.

Shortly thereafter the Polish male nurse, Jennitzki, appeared there. I h ve to say that there were two kinds of Polish nurses in the hospital. Half of them were the so-called National Poles--they were all right--and Jennitzki was one of them. The others were those which you would have to call obedient to Soviet Russia and those were no good. They belonged to this clique of Frenchmen that has been described here

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before, in the hospital.

Well, anyway, Jarmaitski came to me and said that the other Poles were in the hospital and maintained that this young Pole had a broken jaw.

PRESIDENT: The court will adjourn until 9 O'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 2 October, 1946.)

(Gieselman-direct)

CA/GI 13 Legal Form No. 8

First

MILITARY GOVERNMENT COURT

CASE RECORD.

Vol 63

FLOSSENBURG
Case No.
~~Summary~~
~~International Military Court~~
*General
Place DACHAU, GERMANY
Date 2 October 194 6
0900 - 1700 Hours
~~American Court~~
WITNESSES:
KARL FREDERICK ALOIS GIESELMAN
GEORG HOINISCH

Pages 4432 - 4501 Incl.
Prosecutor
Defence Counsel
Interpreter
Reporter

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term
  - Beginning 194
- Fine
  - Amount
  - To be paid before 194
    or in case of default of payment to serve a *further term of imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority

(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH [illegible], ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY ENGLISHED 12 JUNE 1946

2 October 1946 0900 - 1700 Hours Pages 4432 - 4501 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
KARL FREDERICK ALOIS GIESELMAN	4432 4443	4447 4464			4468
GEORG HOINISCH	4476 4479				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
69-A	Translation of Pros. Ex. 69	4432	4432

Camp Dachau, Germany
2 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present; all the personnel of the defense are present, with the exception of Major Oeding, who is absent on business for the accused; all the accused are present, with the exception of Buddensieg, Olschewski, Pens and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PROSECUTION: Will you mark this document Prosecution Exhibit No. 69A for identification.

(Whereupon a document, being sworn translation of Prosecution Exhibit No. 69, was marked for identification as Prosecution Exhibit No. 69A.)

PROSECUTION: May it please the court, we offer at this time as Prosecution Exhibit 69A a sworn translation of Prosecution Exhibit No. 69.

PRESIDENT: Any objection on the part of the defense?

MR. MCKAY: No objection.

PRESIDENT: Prosecution Exhibit No. 69A will be received by the court in evidence and given such weight as the court sees fit.

(Whereupon the document heretofore marked Prosecution Exhibit No. 69A for identification was received in evidence as Prosecution Exhibit No. 9A, is attached hereto, and a part of the record.)

PRESIDENT: Continuation of direct-examination, Mr. McKay.

KARL FREDERICK ALOIS GIESELMAN, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Gieselman, prior to the recess of the court yesterday you were talking about Kurt Gols. Have you completed your statements about Mr. Gels?

A No.

Q Proceed.

A Yesterday I stopped at the point where the male nurse Lipinski had told me that the other Poles had told him that the other person who had been delivered into the hospital had a broken jaw. Lipinski told me at the same time that it was impossible because the one who had been delivered into the hospital had simultaneously devoured two big kettles of food. And Gols himself said that the one in question, the one who had been taken to the hospital, had occupied himself during the three weeks he was in the hospital, b going on errands. When Gels says here that Dehmel, who was characterized here as an angel, when he said that that man had warned me in the hospital, that isn't true. It is known to me that Dehmel did warn chief capo Witmann, who was also quartered in block 19 in A wing. Witmann was unpopular in the block because he was rough toward the smaller people. Witmann had to bear the consequences of his way of action. He died of fleck fever the 20th of February. And he died of the same fleck fever which the Russians died of. They died of it because h threw them into bed, together with their lice. Just before the camp was evacuated my Russian orderly, a prisoner of war, told me about that.

Gols maintains that Dr. Schmits had me come into the hospital and there gave me a warning. Dr. Schmits never had me come into the hospital, and Dr. Schmits never warned me.

And then there was talk about the boys who had to sleep in the wash room. The people in question here are two notorious bed wetters who, upon order of the adjutant, had to sleep in the wash room on a temporary bed which was put up on six small stools, a straw mattress and two blankets. In the winter time, in spite of the order, I, on my own volition, had these people lie on the floor of the dormitory on a straw mattress. You couldn't have possibly put him in a bed with two or three other men.

When Gols talked about the fact that I went and got medicines for the hospital, the medicines in question include aurine, tincture of aurine, which is used for mouth rot. About fifty men in the block had this mouth rot and I would personally paint their mouths at night. I asked in block 1 for a doctor and a German-Russian doctor, Nametski, was transferred to block 19 and, at the same time, in wing A of the same block there was a Russian doctor who had come over later from the hospital, and so it happened that during practically the whole time that I was in the block there were usually two doctors present.

I don't have to make any more remarks about Gols--others have done that for me. I asked at that time for Gols to appear for me as a defense witness because he was present in my block day and night for a very great part of the time. The reason that I didn't for did Gols to do this was because he had such a powerful position. When I was in the camp I never was so dumb that I would want to make an enemy of a man who had such a position, who had such a background, and who operated like he did.

Q Just a minute, Mr. Gieselman, you spoke of a Polish male nurse in the hospital. What was his name?

A Janitski. The witness Schrader contradicts Gols by saying that this person who was supposed to have the broken jaw stayed in the hospital for five weeks. In the cross-examination Schrader had to

admit that he merely knew that from the hearsay which he got from the boy. He said that the boy had told him that he had been pushed and in the same connection the boy could have said that he had pushed himself against something, in the same way that I described it.

I would like to challenge the authenticity of the testimony of this witness Schrader by pointing out, among other things, that he was not in the concentration camp as a political prisoner but that he wore a green triangle. This green triangle was later changed into a protective preventive prisoner classification. Who did that and where it was begun of course is more than I know. The fact is that Schrader was received by many prisoners who sit here in the dock, including Buttner, when he came into the camp from a penitentiary. And another fact is that Schrader had been a block eldest in the times when the times were really bad long before I ever entered the picture.

And now I want to go over to the testimony of Kuefner concerning me. Kuefner said that he had intercourse with me on a friendly basis. A lot of damage was done by using these words "friend" and "comrade" in the last years. Kuefner was notorious as a spy in the camp and he worked as a photographer for 1st Lieutenant Ring, whom I mentioned yesterday, in the political department. Kuefner was accurately pictured in the testimony of Sterflinger. He pictured him just as he was. He could never have been my friend. He maintains that I had beaten a prisoner in the washroom. I now and then would give someone a box on the ear in my block. That all took place in the dayroom. And then he maintains that I beat a hole in his head with a rubber hose. As far as I know it is internationally well known that the police used rubber clubs in order to avoid injuries. And a rubber hose is still much less than a rubber club. A rubber hose has a hollowness inside of it as broad as your finger and is surrounded with a cover of rubber half a centimeter thick which, being such, of course

it is impossible to bring down on any skull so you could make a hole in it, without mentioning the fact that I didn't even strike at all. Kuefner maintains that the man in question died at the end of February or the beginning of March, and he explained that it was a Russian. As usual, he knows neither numbers nor names. He claims that he got this death report ten days later in the quarry, but we heard here from other witnesses that these death reports only arrived once a month at the station in large quantities. If Kuefner has such a marvelous memory that he knows that then he should also remember the name. And besides that, I can finally prove by looking at the books that the prosecution brought in here that at the end of February or beginning of March no Russian ever died in my block. No prisoner from my block died in that month. I want to emphasise no prisoner died in my block. This man was delivered into the hospital.

In order to prove the incompatibility of these testimonies, I would like to refer to the exhibitions which I brought here in court, the Defense Exhibits 13, 14 and 15. By this occasion I would like to emphasise that the French doctors here who were interrogated, Michelin, Boureleer, Legeais, Valousek, Polak, and even Gols himself—all these people who sat at the very top, they sat at the source of all the information, they knew everything that was going on; they were in the hospital where people were delivered, where the reports were drawn up, yet not one of these people ever mentioned that anyone was beaten to death on arrival at the hospital or died in the hospital after he had been beaten to death, in spite of the fact that all of these people are opposed to us and had it in for us. All these people who molested practically everybody; all these people who kept a particular good eye on Dr. Schmitz—all these people would have certainly known about it if these reports were true. The dentist Trap who testified here as a witness said that he had examined all the corpses in

Flossenburg. He had to have the corpses in his office and examined their teeth; and he certainly would have been able to determine if a body had been beaten to death; and he did observe that, and he brings proof that one of the corpses he examined was the body of a girl who had been strangled to death and the body of a five year old boy who had been strangled to death; and even this man who had a special gift for observation has nothing to say about anyone being beaten to death in the camp. I believe that is all.

Q Mr. Gieselman, you spoke of a man by the name of Buttner. Were you acquainted with him in Flossenburg?

A I have known Buttner since 1937. I learned to know him in Buchenwald. And then between the years '38 and '41 I know him in Flossenburg. All this time he was a barber. In the camp he was still more run down than he is now. He always had light duties in the camp; he always had light work to do, easy work to do as a barber because he had a rupture of the testicle and a hernia, which didn't allow him to do any hard work. When the first Poles arrived in Flossenburg I learned to know Buttner more closely because the leader of the protective custody camp always shouted at Buttner, "You Polack, there are your fellow countrymen!" Buttner did me a favor by telling the Poles who were under my command how they should behave and what they had to do and, therefore, he lightened my work for me because the people were oriented. Buttner then left the camp and just before the evacuation I saw him again. He arrived in the transport toward the end of February or along that time and came into the hospital immediately. And during the long days of the evacuation Buttner didn't get any better. He was so physically run down. Schrader fed him a little, tried to fatten him up a little with the slim soup they had in the hospital, but he didn't get any better, and nobody in the camp cared about anyone else in the camp. And then the camp

eldest sent Buttner to the kitchen block so that he would be out of everyone's way and so that he could fatten himself up a little. It was as a block eldest. The block eldest in the kitchen block was a rather superfluous person. During the long years when I was together with Buttner he was a quiet, matter of fact man.

MR. BERKOWITZ: If the court please, I will ask that the last statement be stricken from the record. In the first place, the statement is irrelevent to the defense of the witness. Secondly, if he is to be used as a witness in favor of other defendants he should be sworn for that purpose. He is permitted to take the stand in his own defense and not t be sworn, but if he is to be used as a witness in favor of other defendants, he should be sworn for that purpose.

PRESIDENT: The reporter will repeat the last statement and, Mr. Berkowitz, the court would like to have you be more specific as to just what you are referring to—the entire statement, certain portions of it, or what.

MR. BERKOWITZ: I am referring to the last statement in which he said Buttner was a quiet man.

(Whereupon the reporter read as follows:

". . .During the long years when I was together with Buttner he was a quiet, matter of fact man."

MR. BERKOWITZ: I object to that portion, sir.

PRESIDENT: The objection of the assistant prosecutor is overruled. At the same time, Mr. Berkowitz, the court would like to state that it is not the policy for this court to swear in an accused when an accused takes the stand. At the same time the court will take cognisance of the fact that any reference this witness makes relative to any other defendants is made in the form or an unsworn statement.

Proceed.

Q Proceed.

A Also during these six weeks that Buttner was there we had social intercourse. I talked to him and he talked to me. Whenever I visited him in his block I was able to determine that either the people were not there at all or if they were there they would be in bed. Whenever you saw the people they all looked very well nourished. And the reason was that that was the kitchen block. That was a new block. It had been recently constructed. It was the only block which had a complete ceiling on it, the other blocks had a more or less open roof. The block had been newly painted; it was new; it was completely okeh. Buttner didn't have to do the usual things which a block eldest would have to do because the kitchen capos and the potato peeler capos would take care of all these matters themselves, and these people were either at work or in bed. They didn't have anything to do with the delousing either because every week the kitchen personnel would get fresh laundry and they had their own bath in the kitchen. He didn't have anything to do with dispensing of food either because the people ate in the kitchen so the only thing he really did as a block eldest was to make the roll call, otherwise he was superfluous. And that's the way he acted. He didn't pay much attention to anything that was going on. And at that time he was a real wreck; he was glad when he could stand up on his feet. In that respect I remember a conversation which we once held in regard to the mortality rate. His clerk had a book there in which all the names were written down and we thumbed through this book and we determined that at this time he had two death cases; and we knew actually that more than that had died in block 1. Block 1 had been in operation for the whole year. And then my block, block 19, came up with the mortality number of thirty. Block 2 had a slightly higher mortality rate. That's the block where the handyworkers were quartered. And from then on the mortality rate increased sharply. The other blocks where the sick

people were quartered had a considerably higher mortality rate. In block 23, which was the block for new arrivals, the mortality rate was so high that we couldn't get a good look at it. And these statistics include the year from the end of '44 into '45. And the conversation took place just before the evacuation at the exit. We didn't have conversations like that because we were bored or because we wanted to talk to anyone. We talked about it because we were involved in this dying. And Buttner didn't seem to have much hope left and I constantly had to try to encourage him in that time. And that's as far as my acquaintence with Buttner goes and what I have to say about it.

Q Do you know where Buttner is now?

A Over here in the dock.

Q Will you point him out to the court.

A (Witness indicates)

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 8 as Buttner.

Q Mr. Gieselman, did you ever become acquainted with a man by the name of Karl Mathoi while you were in Flossenburg?

A Mathoi came at the end of 1943 into the camp. I learned to know him there. I knew him as the camp eldest and as a capo at the hospital. Before Karl Mathoi came as camp eldest the camp leader Fritsch was in the office. He said to us "The camp eldest which I would like to have you aren't going to get. You are going to get a stranger that the camp commander has picked". The court is well acquainted with the personal friction which existed between Fritsch and Commander Koegel of the camp and Fritsch said then on this occasion "Well, we will see whether he sticks with me or whether he sticks with the commandant". And in this way, by adding other malicious remarks, he had already undermined the position which Mathoi was to take over.

Then Mathoi arrived and was appointed camp eldest by the commandant of the camp. The protective custody leader Fritsch made a camp puppet out of him. When the commandant of the camp gave an order Fritsch would come and give an opposite order. It wasn't long before Mathoi was so confused he didn't know which way to turn. And it was thrown in his face that he was a friend of the commander. And that made him disagreeable to many of the prisoners; many of the prisoners didn't like him because of that. Fritsch was the one who spread that. When I asked Mathoi once about that he denied it; he said he didn't know him. And at the end it was well known what connection there was there but it was too late then. The feeling at the camp already existed against Mathoi. Many of the people in the camp hated him because he would not let himself be bribed. Mathoi himself had all kinds of fears in the camp. He was afraid to even accept a cigarette from one of the people who stood around him.

At any rate, this situation lasted until Mathoi was relieved of his duties and then Mathoi came to the hospital. Unfortunately Mathoi is such a character that everything that he thinks bursts out of him violently, and that wasn't always fitting in the camp considering the circumstances under which we lived, and so with his frankness and his snappyness of action he came into the hospital, into the territory which Gols ruled. Mathoi was not at all the equal of Gols; Gols was much too smart for him, and it was very foolish of Mathoi to ever get entangled up with such a powerful personality in the camp. And so it happened again that Mathoi played another tragic roll in the hospital and was shoved to one side. The director of events in the hospital, the one who decided everything that would happen in the hospital, was Gols and not Mathoi. When Gols confronts Mathoi with certain injections, I can only say that if were true I would have heard about it. It is certainly true that Mathoi, as camp

eldest, interfered and gave the people a few blows when they raided the bread wagons and potato wagons. And it is also true that Fritsch beat Mathoi across the face and across the neck with a whip when the potato storage bin had been broken open; and he also did the same thing to Mathoi in the canteen when I was there. And he threw it in my face on that occasion that I was cut out of the same wood, in other words, I was the same kind of guy he was. And that was the same Mathoi who was so afraid to do anything that he didn't dare accept a cigarette from anybody.

And whenever the beatings were discussed here in regard to Mathoi, it is true the way it was pictured, and Mathoi, whenever he had to carry out an official beating in the clerk's office, usually tried to get out of it.

And I know that once Mathoi came out of the arrest building and had his face full of blows himself because he refused to beat someone else. Mathoi was ashamed of himself at that time and in general he kept quiet about the incident. He said, "I can't constantly run around here as camp eldest when I myself get my hide full". That's Mathoi.

MR. MCKAY: The witness desires to make some statements with regard to another accused who is represented by Mr. Hall and I would like to have Mr. Hall conduct the examination.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

(Thereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Major Cading who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswalt and Pens who are sick in the hospital. The interests of these accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Mr. McKay.

MR. MC KAY: If it please the court, I have overlooked one matter.

PRESIDENT: Go ahead.

KARL GIESELMAN, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (Continued):

Q You spoke of Nathoi before the recess. Do you know where Nathoi is now?

A No. 25 in the dock.

Q Point him out.

A (Indicating).

MR. MC KAY: Let the record show that the witness has identified the accused No. 25 as Nathoi.

(Gieselman - Direct)

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Mr. McKay:

~~PRESIDENT:~~ Mr. Hall has questions on behalf of the accused Gelhardt. President! Proceed, Mr. Hall.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL:

Q Do you know the accused Gelhardt?

A I know Gelhardt as being the blockleader of block 6 and assistant blockleader of block 6.

Q Identify him if you can.

A (Indicating).

MR. HALL: Let the record show that the witness has correctly identified the accused No. 13 as Gelhardt.

Q When did you first become acquainted with him?

A In block 6, as assistant blockleader.

Q When was that?

A '41.

Q How long have you known him altogether?

A I was prior to that, blockeldest in block 19, and I got in touch with him then when he was blockleader.

Q Blockleader in '41, or assistant blockleader, which?

A He was the assistant blockleader there. At that time there was still plenty of SS people and there were two in each block.

Q How long was he assistant blockleader?

A In '41, shortly before Christmas he was taken away. It was said that he was sent to a school. At any rate, he was gone.

Q Did you have occasion to see him frequently during that period when he was assistant blockleader?

A Yes, at that time I saw him daily. As a matter of fact, I saw him a few times a day. He would come to the block to look through the lockers to see if they were in order and to see if the

floors were white and scrubbed, the beds in order and so forth.

Q Do you recall more precisely the period of time in 1941 during which you knew him as assistant blockleader?

A I definitely know that he went away shortly before Christmas. Whether he had been there prior to that time, 2, 3 or 4 months, I don't know because that changed quickly. I should like to assume he had been there quite some time.

Q Did your acquaintance continue through the year 1942?

A No, I only saw him by coincidence in '43. At that time I was in charge of the canteen and when I was going to the canteen he was coming towards me from the steps. He talked to me and told me he was cook for the dogs. I heard about this thing later on anyway.

Q Do you know where he was from 1941 when you last saw him until 1943 when you next saw him?

A It was said that he had gone to a school or participated in some kind of training. At any rate, he wasn't in Flossenburg at that time. If he had been there prior to '43, I would have seen him or he would have run across me because daily I went to the canteen a few times.

Q He was an SS man, is that correct?

A Yes.

Q Now please describe how Gelhardt treated the prisoners from your personal observation.

A At that time he told the blockeldest in that block by the name of Krebs that any punishment to be undertaken in that block would be carried out by him, and that he should stop writing reports so whenever bread was stolen or something like that, it went to him.

Gelhardt had the custom, which was very pleasant for us prisoners, not to forward any reports. It was very easy for him to handle the Poles in that block because he spoke Polish. And he probably felt himself to be a Pole because somewhere around there was his home. Whenever he punished someone on his own initiative, he would mostly do it in this manner: At that time the steps were not in very good condition and it was very hard to carry food vessels up stairs so he would send those people for 2, 3, 4 or 5 days to carry these vessels to the block. I only remember two cases where he slapped someone. At one time it was Dr. Giesecke who received some for some reason. And at one time when they went down the stairs someone pushed another man. Other than that, I don't know anything about Gelhardt.

Q Is that the same Dr. Giesecke who appeared on the witness stand in this court?

A Yes, he was at that time in our block, block 6.

MR. HALL: Nothing further, sir.

PRESIDENT: Defense, anything further?

MR. MC KAY: Gieselman, is there anything else that you want to tell this court that I have not questioned you about?

ACCUSED GIESELMAN: There really isn't anything, but I should like to again mention to the court that all my actions that I took in block 19 I took on my own initiative. The first day I arrived in camp I didn't listen to the SS or I was not influenced by them in any way, and that goes for all the time I was in camp. During this whole period, I was one who never took any action that was told to me by the SS and I certainly never did it when I had to take over block 19. Because of my camp experience, all my

actions taken in block 19 were on my own initiative. At no time was I influenced nor did I enter into a common design with the SS. That my actions were right has been proven by evidence and I was leading my block during the worst years when the rate of death was the highest. At that time when the dying in the camp was tremendous, I only had 30 death cases in my block. The physical condition of my prisoners was proper. I can state here that outside of block 12 and 1, block 12 had only existed a few weeks, and block 1 had the best people in there and was the best protected block, no other block in camp had such a small number of death cases as block 19. Had I acted in the block as has been brought out by one or the other witness in the beginning of this trial here, then they can be sure, the condition of my block would not have been reached as it has been, and had I not rendered my help and assistance in obtaining things, all kinds of things, the block would have probably have had the same rate of death as the other blocks. I assure you that I never slapped anyone in this block without it being justified, much less that I injured someone's body or took his life by beating him to death. During all these years, I acted calmly and soberly and I always was opposing the SS, definitely. Throughout all these years I stayed the same man I used to be. I start now my 14th year of imprisonment. That is all.

MR. MC KAY: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Gieselman, you base your statement that you had almost the lowest death rate in your block on the figures which you prepared in exhibits 13, 14 and 15, is that correct?

A I based it on the list 13 by being assisted by 14 and 15 and on the basis that it was well known in all of the camp.

Q Now, tell me in these lists, exhibits 13, 14 and 15 in compilation of these lists, what names did you seek?

A I looked for the names of people who according to their birth date had to be in my block and that was the result. Besides I only considered the dead ones because the live ones didn't interest me in this connection.

Q And what birth date did you fix as the date for the determination of those who might be in your block?

A The date given by the commander when the block was activated at that time was the 31st of July, 1925, and everyone who had reached his birthday this day would be taken to other blocks.

Q Then am I to understand that these lists contain the names of all those who appeared to have died in the camp whose birthdays were subsequent to the date in July, 1926?

A No, because whenever transports arrived in the camp, these people would not be sent to the blocks by this date, but by the age they had on the day of their arrival. The day of the arrival in Flossenburg is always shown in these blocks.

Q Then am I to understand that these lists contain the names of those who died in Flossenburg whose birth dates were subsequent to 31st of July, '26, or whose birth dates at the time of their arrival in Flossenburg indicated at that time that they were less than 18 years old?

A Yes.

Q And your first list contains that part of those names of those whom you contend died in your block?

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A In the block itself, only one man died, and that was the Hungarian.

Q Does the first list contain the names of those prisoners who died and who were quartered in your block?

A Yes.

Q And the second list contains the names of those who were under 18 years of age and who had numbers higher than 45,000, is that correct?

A Yes.

Q Does that list also contain the names of those who arrived after January 15, 1945?

A This list contains the names of persons who arrived on February 6, 1945 from Sachsenhausen and of people who arrived on February 13, 14 and 15, 1945, respectively from Gross Rosen.

Q Well on which list would you place a man who had arrived in the camp after January 15, 1945?

A After this time I don't think anyone arrived.

Q It is your contention that nobody arrived in your block after the 15th of January, 1945, is that correct?

A After January 15, 1945, only those people who returned to me in March or April returned to the block who had been sick in the hospital and who had been in the block previously, but they are not [redacted] under these numbers.

Q And you received no new arrivals after the 15th of January, is that your contention?

A Not in the block, no, the block was overcrowded.

Q When did the Hungarian Jewish transport arrive at your block?

Sa 426-10/2-1of-6

A On November 9, 1944, the Hungarian Jews arrived and I received them in my block on November 23, 1944.

Q How then did you erect this barbed wire cage in your block?

A That was during the days when they arrived.

Q How long did it remain?

A As my rule it was gone before Christmas. It could have been 2 or 3 weeks only.

Q Sure it wasn't there in 1945?

A No, it was not there in '45.

Q Was the danger of infection cleared out in 1945?

A May I ask what danger of infection you are talking about?

Q You said you had erected this cage because of danger of infection from these boys. Now I ask you at that time had the danger of infection decreased?

A In the first place I did not talk about a cage. I always stated that that was barbed wire strung across or crosswise upon orders of the adjutant because these Hungarians were full of lice. I also told the court that the Hungarians who were reputedly very dirty and full of lice wasn't the case and because of that and also because this silly wire was in the way, I had it taken down.

Q Will you answer my question, please?

A May I again hear the question?

(Whereupon the reporter repeated the question.)

A I think I did answer that question by giving my explanation.

Q Well, in '45 was the danger of spreading lice still existent or non-existent?

(Discussion - Omsa)

A There was a general danger of spreading lice in the camp but the Hungarians didn't have anything to do with that.

Q Now isn't it a fact that there were other Jews besides Hungarians placed in the cage by you?

A Not to my knowledge.

Q How many beds were in this cage?

A 24 beds on either side, but I object to the word "cage". It was not a cage.

Q Isn't it a fact that there were 16 beds?

A No, with me, 3 times 8 is 24--beds.

Q How many men slept in this enclosure?

A There were 3 to 4 men in each bed. Others I had taken into the day room.

Q Isn't it a fact that there were 96 men in 16 beds?

A What was the number?

Q 96 men in 16 beds?

A 85 could be correct, approximately 85.

Q That is in 16 beds?

A That can be right.

Q Were these all Hungarians, these 85 men, Hungarian Jews?

A Those were Hungarian Jews during the first days, but after 4 or 5 days, the whole distribution in the block was mixed up. And I always left it up to the inmates how they wanted to sleep together, except in single cases when fights occurred, because I said to myself, I don't want to sleep with just any one and so I left it up to them to choose any companion they wanted to to sleep with and after the bedroom had been disinfected, I told them when they came back in to get together in groups of two's or three's according to

Za 456-10/2-1of-10

who they wanted to sleep with because I just didn't want to throw anyone together with anyone else. I wanted to have peace and quiet. Furthermore, with a mass like that they would have crawled together anyway they wanted to.

Q Now isn't it a fact Gieselman, that you had all the Jewish boys sleep together in that enclosure?

A. No, that is not correct.

Q Isn't it a fact that you had established a Ghetto inside your block?

A The word "ghetto" was said, but the Russians said it and they meant it in a joking way. Nobody thought bad of it.

Q Now did you have a Pole in your block named Thaddeus Wisniewski?

A I can tell you I knew many fellows by first names but I would call them by "you come here". But I did not know any Polish or Russian names.

Q Now this Thaddeus Wisniewski arrived in Flossenburg on the 29th of January, 1945.

MR. MC KAY: I object to the question because the prosecutor is trying to testify.

MR. BERKOWITZ: I haven't finished my question, Mr. McKay.

PRESIDENT: Finish your question, Mr. Berkowitz.

Q Would you say that this Mr. Wisniewski was never in your block?

A I can—

MR. MC KAY: Still improper in form, argumentative and not proper cross examination.

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MR. BENKOWITZ: If it please the court, I am not arguing with the witness. I am asking him if a man was or was not in his block. I am trying to clarify his memory.

PRESIDENT: Repeat the question reporter.

(Whereupon the reporter repeated the question.)

PRESIDENT: Objection overruled.

QUESTIONS BY MR. BENKOWITZ (Continued):

A May I hear the question again.

Q Mr. Thaddeus Wisniewski arrived in Flossenburg on January 29, 1945--was he or was he not in your block?

MR. BENKOWITZ: McKay: I object to the form of that question because we don't know the truth of the statement whether this man ever arrived. We have it merely in the form of the prosecutor's statement. If he wants to take the witness stand and testify, he may do so.

PRESIDENT: Mr. Benkowitz, the court would like to know as to what previous testimony you are basing that statement on when this particular man arrived.

MR. BENKOWITZ: If it please the court, the witness has testified that nobody arrived in block in question after January 15, 1945. I am asking if a certain man arrived.

PRESIDENT: You are not stating your question in that manner. You are stating your question that so and so arrived.

MR. BENKOWITZ: I am laying the predicate for impeachment of his testimony. I wanted to test his credibility concerning those who arrived subsequent to that date and regarding the numbers subsequent.

PRESIDENT: The court has no objection if you go about

(Dieselman - Cross)

it in the right manner. The objection is sustained.

MR. ZEMKOVITZ: Will the court give me just a moment to locate the books?

PRESIDENT: The court will take a short recess.

(Thereupon the court recessed at 1125 hours.)

(Thereupon the court reconvened at 1135 hours.)

PRESIDENT: Court will come to order.

MR. MO RAY: If it please the court, may the accused Nuhumbner be excused from the court?

PRESIDENT: Granted. Continue Mr. Zemkovitz.

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. ZEMKOVITZ (Continued):

Q Mr. Glocolmm, I call your attention to Prosecution Exhibit No. 15 with particular reference to No. 44,896 and ask you to read the entry.

A No. 44,896, Polish civilian worker, Thaddeus Wisniewski, born in Warsaw on May 5, 1927, arrived in camp, January 29, 1945.

Q Now I ask you was that man an inmate of your block?

A According to my knowledge, no one arrived after the 19th of January, 1945, as I have stated before. The book shows that anyone who arrived during this period were sent to Commando Klink.

Q Does this book show that this man was sent to Commando Klink?

A This man was not marked with Klink behind him, but all the others were. I can't say anymore about that.

Q All right, I call your attention to Prosecution Exhibit No. 16, No. 4775, and ask you to read that.

A Rosenthal, Erie, German Jew, born January 6, 1928. No

(Glocolmm - Cross)

Ms Hoe-ko/2-1of-13

came to the camp via Sachsenhausen on February 6, 1945.

Q Was this man, Eric Rosenthal, an inmate of your block?

A I have already described how Rosenthal got into the block. He qualified his way in until he was discovered and thrown out.

Q Was this man an inmate of your block?

A Yes.

Q And he arrived after January 15?

A According to the book, that must be right.

Q Now as a matter of fact, weren't men with numbers higher than 45,000 continually coming into your block and men arriving after January 15 also coming into your block?

A No.

Q Now when Rosenthal arrived in your block in February, weren't that barbed wire enclosure still standing there?

A I don't believe so.

Q Well, you ought to know, you were there, yes or no?

A When I—

MR. MC KAY: I object to that form of examination as argumentative and certainly improper.

PRESIDENT: Objection sustained.

Q Well, are you certain it wasn't there?

A Why?

Q The enclosure.

A It was not there any more.

Q What do you mean when you say you believe it wasn't there?

A Why I know that it wasn't there any more because I took it away myself.

Q Now you stated that in '42, the food was good, is that correct?

(Rosenman - Evans)

A Yes.

Q Was there any stealing of food in '41?

A It all depends on how you take that. There were no garbage cans in front of the kitchen, but bread thefts existed at that time.

Q Was food insufficient at that time?

A There was one liter of food at that time, and we still received soup in the morning and in the evening part of the time. That, myself, I would say was sufficient.

Q When did these Russians come into the camp?

MR. MC KAY: Let the record show that the accused Rahmlower returned to the desk.

A I believe you are referring with your question to the Russians, the Russian PW's we received in Bloomsburg.

Q Will you testified yesterday that 2500 Russian prisoners of war came into Bloomsburg and were quartered in Blocks 21 and 22, is that correct?

A Yes, that must have been in '40 or '41.

Q Was Dr. Schmitz there at that time?

A At that time we didn't know anything about any Dr. Schmitz. Dr. Brunner at that time was the doctor in charge.

Q How had you talked over this case with Rathut?

A What case?

Q The present case.

A You mean our own case?

Q Yes.

A As far as was possible to exchange a word in the dock, yes, other than that, no.

(Bloedlman - Cross)

Q You made a deal with Mathoi to testify for him if he testifies for you—

MR. MC KAY: Question is objected to as argumentative and against form.

MR. BERKOWITZ: If it please the court, it is no argument. I want to know what is or has transpired between these witnesses in view of the fact of the letter which Mathoi sent to another witness in which he stated that "the end justifies all the means". I want to know just what transpires and the court has a right to know and this is proper for cross examination.

MR. MC KAY: The prosecutor's last statement shows clearly that the question now goes beyond the scope of cross examination.

MR. BERKOWITZ: If it please the court, he has testified for Mathoi, and I want to know whether he was influenced in that testimony by Mathoi and the court has a right to know that, in that Mathoi has stated how he feels about testimony and about the means used to defend himself. Mathoi has testified for him, and he is testifying for Mathoi. The court has a right to know, and I have a right to ask whether there was any arrangement between them.

PRESIDENT: Objection overruled.

QUESTIONS BY MR. BERKOWITZ (Continued):

A I did not make any kind of a deal with Mathoi. Mathoi would be the least man to influence me. There is no man here who could influence me and I don't have to depend on that kind of means because I still have my mouth to defend myself with, and I have done that.

Q Now, were you in Flossenburg when the camp was taken over by the Americans?

A No.

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Q And you don't know anything about Golis' relations with the American authorities when the Americans arrived, do you?

A Yes.

Q Were you there?

A The American official stated that here in the witness chair. I heard that myself.

Q You don't know anything of your own knowledge, do you?

A I know that the American official here on the witness chair testified under oath that the man in the picture who was Golis had introduced himself to the American official as a Frenchman by the name of Pierre Bertram.

Q Now you answer my question. Did you know of your own knowledge of any relations between Golis and the American authorities?

A Outside of this statement under oath, I don't know anything.

Q All right, where were you at the time the camp was taken over?

A I think I was on my way back from Stemmried or else still in the evacuation march.

Q Were you in the evacuation march?

A Yes.

Q What time did you leave Rosenberg?

A April the 20th about 6;30, as the last group.

Q Were you part of the guard?

A No, I was a prisoner.

Q Weren't you armed?

A No.

Q Now you spoke about this man, Bulcke who was shot at the wire. Can you tell us when that incident took place?

(Discussion - Omitted)

A I can't state whether it was in '41 or '42, but if you check up in book 1 and look under Reimeier's release, then this incident was before Reimeier was released.

Q Who is Reimeier?

A A former compoleost.

Q Who was commandant of the guard at that time?

A We didn't know the commander of the guard at all at that time. In the years of 1939, '40, '41 and '42 the commando of the guard was something big. We never got acquainted with him.

Q Were you ever a member of the camp police?

A According to orders, I received a uniform of the kind given all blockeldests at the beginning of April and an arm band, the number I believe was 212. I was once in the drill field, but I did not ever again leave the camp to participate in these drills. About the 16th or 17th all the Germans had to fall in in the riding courtyard and the commander, Koegel, surprised us with the following address. He said, now that you have all volunteered to join the SS, I release you as of today to join the SS. Anyone who wants to stay back voluntarily can do that. It was a general surprise because prior to this the commander had lied to us and told us that a camp police would be activated which was supposed to hand over the camp to the Swedish Red Cross. After this speech, the commander asked what blockeldests wanted to stay with their blocks, with the danger of course that the Russians and Poles would cut their throats. Anyone who wants to take that chance can stay with his block in the camp. I went back into the camp and I stayed there, but the commander stated that the camp would be handed over to the Swedish Red Cross, and the SS and camp police would retreat into the mountains.

(Gieselman - Cross)

On the 16th or 17th when American planes were overhead, he had white flags put on each barracks and after the planes had left, he took down the flags and the camp was evacuated on the 20th of April, despite this fact.

Q How you say you were in charge of the canteen and that the prisoners were permitted to buy 40 percent of their allowance in tobacco, what could they get for the other 60 percent?

A If available, sauerkraut, beets or any other preserve vegetables. There was, for instance, also coffee powder. These things of course went fast. They were gone fast after they arrived. For instance, there were always special customers. The Russians would buy the coffee powder and eat it with a spoon, while the Poles liked sauerkraut and the Frenchmen liked mixed pickles. Others who came later had to buy things like toothpaste or peppers. It was like that during the last two months that I had the canteen and I objected to that by going to Pritsch. There was a reason for my making the remark that I didn't want to go on.

Q Then you were released and sent to the railroad station, is that correct?

A Then I went down to the railroad station as an unloader.

Q Who was in charge of that detail?

A As far as I know there was a different detail leader every day. I did not really get acquainted with him.

Q Do you remember who any of them were?

A I really can't remember—I was only down there for 3 weeks.

Q Then in May, 1944, you were called upon to organize block 19, is that correct?

A The end of May, 1944, yes.

(Gieselman - Gross)

Q And who selected you for this job?

A As I stated to the court before, I was recommended by the roll call leader and by that time Koegel and the commander designated me.

Q And these two men were both SS men?

A Well of course, the roll call leader and the commander are SS men.

Q Who was your Czech clerk?

A Moitchez.

Q And who was your Russian orderly?

A His first name was George. I don't know his last name.

Q As a matter of ~~fact~~ fact, you had quite a few young assistants helping you with your work in the block, didn't you?

A That is correct and it isn't correct. There were volunteers every day among the people who didn't do any work to do the cleaning and they worked under the supervision of this Russian. It is definitely not so as has been stated here before that these were always the same people. They were always different people.

Q Well, isn't it a matter of fact that you had your young favorites in the block?

A Whom should I have favored?

Q You tell me.

A I don't know of having favored anyone in the block. It is a simple fact that you like one person better than another, but I don't know of any one whom I favored and I don't know any reason why I should have done that.

Q Now isn't it a fact that you beat prisoners with a gumni and a belt?

A No.

Q What did you use to beat Retzlaff?

MR. MC KAY: I object to that as going beyond the scope of the direct examination. It is immaterial and irrelevant to any issue in this case because it concerns a German prisoner not covered by the charge of the prosecution.

MR. BERKOWITZ: This witness just testified he never beat prisoners with a gumni and a belt. Now I am asking about one particular incident which will go to his credibility and general treatment of prisoners.

MR. MC KAY: This testimony was never touched by this witness under direct examination.

MR. BERKOWITZ: If it please the court, the witness has testified that he never beat his fellow prisoners with a gumni or a belt.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

COLONEL JACKSON: I object.

PRESIDENT: The court will recess until 1:30 o'clock.

(Whereupon the court recessed at 1200 hours.)

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Camp Dachau, Germany
2 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Lt. Colonel Denson, who is absent on business of the prosecution; all personnel of the defense are present with the exception of Ruddensieg, Olschewski, Oswalt and Renz, who are sick in the hospital, and Fahrnbauer and Keiling, who are conferring with their counsel. The interests of the named accused who are absent are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Esther Nostenhaver has been appointed court reporter and will be sworn.

(Whereupon Esther Nostenhaver, U. S. civilian, having been appointed court reporter, was then duly sworn.)

KARL FRIEDRICH ALOIS GEISLHOFER, an accused, resumed the stand and testified further through an interpreter as follows:

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CROSS EXAMINATION CONTINUED

QUESTIONS BY MR. BERKOWITZ:

Q What did you use to beat Retzlaff

A I understood that the court made a ruling on this person being a German and that the objection of my defense counsel was sustained.

Q Will you answer my question.

MR. MCKAY: I think it should be explained to the witness what has happened because he does not understand.

PRESIDENT: The final decision of the court is that the objection on the part of Mr. McKay has been overruled.

A I was not even present when Retzlaff was beaten. I only arrived after Retzlaff had been beaten.

Q Do I understand, then, that you never beat Retzlaff?

A No; that's right.

Q Now, did you use a club to beat prisoners?

A No.

Q Did you use part of a chair to beat prisoners?

A No.

Q Did you ever beat a prisoner while he was lying in bed with part of a chair?

A No.

Q What was the chair treatment you gave to prisoners in your block?

MR. MCKAY: I believe this is going beyond the scope of the direct examination.

MR. BERKOWITZ: If it please the court, the witness has testified concerning the treatment he accorded the prisoners in the block and I want to question him concerning one particular type of treatment. There has been some testimony that prisoners were forced

to stand on a chair and I want to show the details of that particular type of treatment.

MR. MCKAY: Prisoners standing on a chair was never testified to by this witness.

MR. BERKOWITZ: I believe I have the right to question this witness concerning all phases of his treatment of prisoners who were in his charge. He has testified as to proper treatment of prisoners in court and I believe I am entitled to know the details of this proper treatment.

PRESIDENT: Mr. Berkowitz, are you referring to the testimony of this particular witness?

MR. BERKOWITZ: No; I am quoting his testimony to the effect that he treated prisoners properly. Now, I am questioning him concerning certain details of that treatment.

PRESIDENT: The court will be closed.

(Thereupon the court was closed at 1405 hours.)

(Thereupon the court was opened at 1415 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Lt. Colonel Denson, who is absent on business of the prosecution; all personnel of the defense are present, with the exception of Major Oeding, Mr. Hall and Mr. O'Connor, who are absent on business of the accused; and all the accused are present with the exception of Ruddensieg, Olschewski, Oswald, and Penz, who are sick in the hospital, and Fahrnbauer and Kelling, who are conferring with their counsel. The interests of the named accused who are absent

are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is overruled. Will the reporter read the last question.

(Whereupon the question was read by the reporter.)

KARL FREDERICK ALOIS GIESELMAN, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION CONTINUED

A I understand you to be talking about standing on a chair?

Q That is correct.

A If a man had stolen bread, frequently I would put him on a chair in the middle of the room and show him to all the people in the block and say, "That is the thief whom you have been seeking for the past days." The person would stand on a chair ten to fifteen minutes. I found that to be a very effective method because the man was ashamed of himself and quit stealing. That was just calling on the man's conscience and feeling of pride.

Q Did you beat them while they were on the chair?

A No.

Q Never?

A No.

Q Didn't you beat a Russian boy on a chair so badly he had to be taken to a hospital?

A No.

Q Now, am I to understand, Mr. Gieselman, that your first conviction was for forgery?

A It was swindle.

Q And the second conviction was for the same thing?

A It was a forgery.

Q And the third one, - was that forgery or swindle?

A That all concerns forgery or swindle.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct?

MR. MCKAY: Yes, sir.

RE-DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q What do you understand by the word, "beating", Mr. Gieselman?

A You can stretch the point of that very far. It is a beating if someone slaps someone in the ear; or else if he would go against him with a club.

Q When you refer to the word, "beating", what do you have in mind?

A When I use the word, "beating", or when I refer to any action taken on my part, I mean the beating with the flat hand on the ears.

Q Describe the chair treatment of prisoners. Will you explain to the court why that was a common practice in the camp while you were there?

A The chair treatment was used by those block leaders who refused to go against their prisoners with brutality but who wanted to call on the pride of the prisoners. In former times, we used a similar thing. They would put a sign around a man's neck, - "I stold bread". It was always effective.

Q Was there anything else in your cross-examination that you would like to explain to the court?

A No.

PRESIDENT: Any further questions by the defense?

MR. MCKAY: Nothing further.

PRESIDENT: Re-cross?

MR. BERKOWITZ: No, nothing, sir.

PRESIDENT: Questions by members of the court?

PRESIDENT: Apparently not.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Gieselman, what were the names of the various newspapers you had connections with?

A The newspaper to which I had direct connection, for which we worked, was the Bremen newspaper, which at that time worked for the National Socialist Party.

Q The court desires to know just what were the names of the papers you were affiliated with?

A Only with the Bremen workers newspaper and the Bremen newspaper of the National Socialist Party.

Q What party affiliation did it have?

A Bremen SDP.

Q What do you mean by that?

A Socialist Democratic Party of Germany.

Q What were the party affiliations of the other papers you worked for?

A The newspaper for which I had my friend quit me was the National Socialist newspaper.

Q Then the court understands that all these newspapers you worked for were affiliated with the National Socialist Party?

A No. The workers newspaper, for which I did the printing

was a socialist paper; and the newly-activated paper for which I took care of the advertising until a short time later when we split, was the National Socialist newspaper.

Q Just what kind of a triangle did Schrader wear?

A A green triangle with point down.

Q Did you ever see him wearing any other kind of triangle?

A Never.

Q When was the last time you saw Schrader in camp?

A April 20, 1945, about five minutes before I left the camp.

Q What kind of triangle was he wearing at that time?

A I can't say that. At that time I didn't pay any attention to Schrader, nor to his clothes; but I know definitely that he was still wearing a green triangle eight days prior to this.

Q What makes you think so?

A Because eight days previously, I talked to him in the hospital and I saw he was still wearing his number and his small green triangle in front of the number. At that time, the triangle was not as large as they used to be; and I believe that last day he was wearing a white overcoat and there was no triangle on it.

Q Then the court understands you base your statement upon the fact that you personally saw Schrader wearing a green triangle within eight days of the liberation, is that correct?

A With certainty, with the green triangle.

Q And now you have mentioned in your testimony that you applied this chair treatment with respect to larceny, particularly referring to the theft of bread?

A Yes.

Q Before you applied that chair treatment, did you have any definite information or evidence that the particular man upon whom you applied this particular type treatment, referring to the chair treatment, was guilty of larceny?

A It was mostly like this: The boys themselves would pay

attention to any man whom they suspected. And then they thus caught him, they would then take him to me and tell me about it. And the party in question was in no other position, in most cases, than to admit what the others had seen. I don't think that anyone has been standing on the chair unjustified.

Q You mean to imply to the court, then, that in every case where you applied this chair treatment, that the particular individual had admitted larceny?

A Yes.

PRESIDENT: Any further questions by the court?

QUESTIONS BY THE LAW MEMBER:

Q When did you go to Flossenburg?

A 23 September 1938.

Q Now talking about Schrader, I understood you to say just before lunch that he had been discharged from the penitentiary. Do you know why he was in the penitentiary?

A No; I didn't state that. I said that one of the accused here in the dock had received Schrader as coming from the penitentiary, but that Schrader actually was admitted much later in Flossenburg.

Q Now in regard to Gelts, do you know what kind of triangle he wore?

A Red triangle.

Q Now, you made some reference to him being a homosexual inmate, - do you know if that is true?

A According to my opinion, yes, because the hospital was well known in the camp as being the main place of homosexuality, and with it, Gelts.

Q With regard to the witness Kuefner, you said he was a spy for one of the SS lieutenants in the camp, is that right?

A Yes.

Q Do you know anything about any reports he turned in against other inmates, as such a spy?

A That is very hard to prove. Whenever it became known that one of these was a spy for the SS, the SS would drop them indirectly, if so known.

Q Was that generally known, or merely a suspicion?

A According to my opinion, it was well known.

Q Now, you have testified about people being taken into the washroom, I believe, or some other place, where they were almost starved, do you recall that?

A Yes.

Q Now, can you state to the court, whether or not during the last several months, there were a number of caravans or trains bringing people in, in that condition?

A All the trains which arrived during that period in the camp, all came from other camps or evacuation marches and brought people all in the same condition, or at least the highest percentage. All these people said that they had been out in the cold weather, that they did not receive sufficient food, and even the better ones, stronger ones, arrived in that kind of condition.

Q Would you say that those starved people who came in the camp and died were starved before they got into the camp, and would they die in the hundreds or the thousands?

A I know that the rate of death was very very high during that period. We had 10,000 in 1944 and 12,000 in 1945, within the camps and out-camps, but most of these arrived from other camps and transports during this period. We have never had, -- although we have suffered in Flossenburg, -- any such high rate of death in the camp proper.

Q Were those people starved before they got to Flossenburg or after they got to Flossenburg?

A They arrived in that kind of condition. They didn't

receive any food while they travelled. I know of one transport arriving in which all the people rode in open freight cars and had no food for six days.

Q Were those people carried on the books as having died in Flossenburg or having died in the camps from which they came?

MR. BERKOWITZ: If it please the court, there is no evidence that this witness knows how the books were kept. Until that is found out, possibly the question might be withdrawn.

PRESIDENT: Is this an objection on the part of the Assistant Prosecutor?

MR. BERKOWITZ: Yes, sir.

PRESIDENT: The objection is overruled.

A I, myself, used to work in the office for better than a year, and although I did not keep these books, I kept other books. I also had a chance to get to the clerk's office and had a chance to look in several of his books, because I was known there. And I noticed they did have the people who had been delivered to Flossenburg and unloaded, that was kept in those books as unknown deaths, and thousands who died in Flossenburg itself, of course, were kept in these books.

Q And that included all the people who came on these trains, either dead or in a dying condition?

A Yes.

Q Gieselman, to the best of your knowledge, what was the total number of prisoners over which you had control in the eleven months when you had Block 19?

A The highest number, - 960; the least number 600.

Q What I meant is the total number of persons over whom you had control over that eleven months period?

A That varied, according to the rate of death which I mentioned here. It started, as I mentioned, 600, ~~600, 600,~~

then 950, the highest, that is an approximate number. Then again 900, then 800, and then those people returned from the hospital, all of them, and then it went for the last two months up to 850 again.

Q Did you automatically turn out boys when they reached the age of eighteen?

A When they were eighteen, they were transferred from the block to the clerk's office and the clerk's office would dispose of them, that is, send them to any block which had room. In the very beginning, I did that once a month, but after conditions became overcrowded, and I didn't have any further room, I did it once a week. I was glad of every man I could get rid of because of the space.

Q How did you happen to have on your exhibit here, - you had four people who had died over the age of eighteen. How did you happen to let these remain in your block?

A I made up this statistic, and when I went through it, I found these three men had died over the age of eighteen. However, that didn't make any difference as far as death goes in my block, so for that reason, I left them on the list.

Q Did you, by any chance, knowingly omit putting out any certain people, as they became the age of eighteen?

A I don't understand that.

Q Did you, by any chance, owing to any particular condition in the block, hold certain boys in there, after they had reached the age of eighteen?

A Not knowingly.

PRESIDENT: Questions by other members of the court? Colonel Emly.

QUESTIONS BY LT. COLONEL SMYLY

Q On your direct examination, you stated Buttner was worried about the mortality rate, - do you know why he was worried?

A Because he himself was so weak and he was afraid he himself would also get these diseases from lice.

Q You went on to say you tried to console him because "we were involved". What did you mean by that?

A Because we all talked about it. We all were afraid that we also would catch this epidemic carried by lice, and there is only one thing in our minds. We wanted to live after this whole thing broke down. We saw with our own eyes this thing could not last much longer and we knew that would be our freedom and we at least wanted to live that long as a matter of satisfaction.

Q Were conditions as hard on the German prisoners as they were on the foreign prisoners?

A I can only answer that in the affirmative. Blocks 1 and 2 were cleaner and conditions there were better because the prisoners in those blocks looked after their personal hygiene. Besides, those few Germans left in the camp at that time were tough. They were the last remaining of all who had been there previously. They were in a physical condition to go through it. Any man who has been in the camp for a few years, becomes tough as leather.

(Gieselman-Court)

It must be noted that the remaining 500 Germans were the last ones of several thousands who went down there.

Q You mean the rest of them that died there?

A The others there, or in other camps during the course of all these years.

Q And then were transferred to the Wehrmacht or to the SS?

A A few were sent to the Wehrmacht. At the time of the German Wehrmacht drafting commission, it was still allowed to enter the German concentration camps. This admittance of the Wehrmacht Commission to the concentration camps was stated by the SS, with the exception that the SS would use these people for their own units. The Wehrmacht captain who at that time carried out drafting, was told by us about our wishes and conditions and at that time he was very disgusted. It was clear to us they didn't want to let us out of the camp, because by that time I had accumulated too much experience. The former roll call leader, Schmuts, told us, "If things should go on the reverse side, we will just point the machine guns, like cigarettes, and you will be gone within five minutes."

Q Would you say, then, that the mortality rate among the German prisoners was higher than among the foreign prisoners?

A No; I can't state that; but the mortality rate among the Russians must have been the greatest.

Q In your testimony, you stated that Golts was too smart for Mathoi, is that true?

A Yes.

Q Was Golts too smart for you, too?

A I acted towards Golts very cautiously. I looked at him

like I look at gasoline, - just as easy to catch on fire, - that's how dangerous he was.

PRESIDENT: Questions by members of the court?

PRESIDENT: Apparently there are none. Re-direct?

MR. MCKAY: Nothing further.

PRESIDENT: Re-cross?

MR. PERKOWITZ: Nothing, sir.

PRESIDENT: The court understands the defense is finished with this particular witness for the time being.

MR. MCKAY: Yes, sir.

PRESIDENT: The witness will be excused from the stand and resume his seat in the dock.

(Whereupon the witness was excused and resumed his place in the dock.)

MR. MCKAY: The next accused who desires to take the witness stand is the accused Hoinisch.

PRESIDENT: Hoinisch, do you desire to take the stand in your own behalf?

ACCUSED HOINISCH: Yes.

PRESIDENT: Proceed, Mr. McKay.

Georg Hoinisch, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Hoinisch, are you one of the accused in this case?

A Yes.

Q Were you a prisoner in Flossenburg Concentration Camp?

A Yes.

Q When did you go to Flossenburg Concentration Camp?

A February 6, 1944.

Q Will you explain to the court how it came about that you were sent to the Flossenburg Concentration Camp?

A Because of the National Socialistic Laws of the 1st of

January 1943.

Q Will you explain to the court what, if any, convictions you had had prior to the time you were sent to the Concentration Camp?

A To give a clear picture to the court about this I have to go back to the year of '32.

Q Explain it.

A The year of '32, I was a socialistic youth leader. We were fighting our last battle against the National Socialists, together with the anti-fascists. We lost this battle.

Q What section of Germany were you living in at that time?

A In upper Silesia.

Q Proceed.

A In 1933, we organized a resistance movement from these groups which had been broken up and dissolved. It was the job of this resistance movement to sneak among the ranks of the SA and SS or Hitler Youth, and start work of resistance there. I was ordered to join the Hitler Youth as a former youth leader. I succeeded in receiving a position and starting my work of sabotage and resistance. I received the position as a bund fuehrer district leader of the leader Oleiwitz. I had a staff of members who were fanatical Nazis. During the course of time I succeeded in getting rid of these staff members and replacing them with members of the resistance organization. And then a work of sabotage and resistance among the ranks of the party started. The work which we had done for one year was finished and we were ready to fight. A revolt occurred within the ranks of Nazis themselves and our work was destroyed. We had to act passivly for months until the storm quieted down. In September 1933, we started all over again, and this was how we

worked until 1935. In October 1935, we had a D-day to start to fight again. At that time I was leader of the Division 3.

PRESIDENT: The court will be recessed for thirty minutes.

(Thereupon the court recessed at 1500 hours.)

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(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter, absent on business of the prosecution, all the personnel of the defense are present with the exception of Colonel Wilson, Major Oeding and Dr. Wacker who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Oswald and Olschewski who are sick in the hospital and their interests are being taken care of by their respective counsel.

If there are any spectators in the courtroom who are expecting to be called as witnesses, will they please leave the courtroom?

PRESIDENT: Continuation of direct examination Mr. McKay.

QUESTIONS BY MR. MCKAY

Q Mr. Hoinisch, prior to the afternoon recess you had stated that you were leader of Division 3. Will you explain, then, your activities that brought you into the concentration camp?

A I took over my position as colonel and began my activities again. Above all, I wanted to catch up on the two years time that I had lost.

I began with the youth and brought it up to the SS and the SA. After the work had succeeded, happily, we finally got the trials set for the first of January, 1936.

In December a new wave of arrests swept over Silesia, and hundreds of people were locked up in the contration camps, and our resistance movement and our 5th column was completely destroyed and I was waiting for certain arrests. I was getting ready to escape abroad.

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It was in the month of March that I crossed the border into Poland and was arrested by Gestapo. Then a series of interrogations and investigations started and they took it out on me by reprisals and by mistreating me very badly. They wanted to find out all about the people who started this revolt and who the leaders were.

The leader of the revolt and the 5th column was Doctor Oberskalski. I couldn't tell the Gestapo anything because I had taken an oath of silence when I was in the resistance movement. I was finally brought to court and in 25 minutes they condemned me to 25 years in the penitentiary. Sent on the following grounds: Preparation for high treason, sabotage work, disintegration of the party and the branches of the party and after that they again condemned me to two years penitentiary and for demobilizing the Hitler Youth and because I financially damaged the party and the branches of the party. According to the reports which came in from the locations in question the amounts often ran into hundreds of thousands of marks. That was money which was designated for the party but which we stopped and took. We directed this money into the hands of the people who needed it—who were in trouble.

The second conviction took place in order to cover up the first conviction which was a political affair. They wanted to make me as a traitor, a high traitor or a rebel. They wanted to make the people know that. I would like to emphasize that 75 per cent of the population in Upper Silesia are Poles. All in all I had 7 years penitentiary sentence.

They took me over to the Dutch border, into the so called moors, and I sat out my 7 years sentence under the most severe conditions, and with the hardest of all work. When I was supposed to be released the Berlin Gestapo came and got me.

(Hoinisch-direct)

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A new interrogation started which lasted for weeks. I was subjected to the most severe tortures and mistreated but the oath that I had taken with the resistance movement obligated me to silence. They gave me over to the Silesian Gestapo and the interrogations began again and they promised me freedom and great amounts of money as a reward if I would betray who the leaders of the movement had been. I had to keep quiet and they finally sent me to Auschwitz after they had severely wounded me.

Q How long did you remain in Auschwitz before you went to Flossenburg?

A I remained in Auschwitz all of October, 1933 and then I tried to escape. I succeeded in escaping out of the camp but I had to keep myself concealed in the outskirts around the camp.

COLONEL [illegible]: Shouldn't that date have been 1943 instead of 1933?

Q What was the date that you escaped from Auschwitz?

A It was in October of 1943.

I remained hiding in the canal for three days and in order to punish me they arrested all the members of my family and took them to Auschwitz under guard. There were three brothers, two sisters and my old mother who was 72 years old. A few days later they found out that one of my brothers had also been a leader in the resistance movement. It was the 15th of October, and I had to be a witness when they shot my brother to death in the courtyard in Auschwitz. My mother died 2 days later and they brought my sister to Aravensbrueck. I had been hiding in the canal and after hunger and cold drove me out of the canal I was taken prisoner by a scouting column. I was mistreated very badly and was sent back to the camp with a broken jaw. I came into the arrest bunker and I came into a cell which was 1 meter 20 centimeters broad and 1 meter 20 centimeters long.

(Kolnisch-direct)

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Q Mr. Hoinisch, when was it then that you were transferred to Flossenberg?

A I stayed in this bunker until February with very little food. On the 4th of February, 1944 they came into the cell and got me and took me to Flossenburg.

Q Were you informed why you were to be taken to Flossenburg?

A They explained to me that I was too close to my native land and was in contact with foreign countries. For that reason they were taking me to Flossenburg.

Q Mr. Hoinisch, what was you nationality considered as in Flossenburg?

A I was without a country.

Q Explain that to the court.

A In 1921 I took part in the Polish revolution and I was banished for that reason. I belonged to a terrorist movement, a separation movement and Poland kicked me out again after two years. And so I became a football of fate kicked around between these two countries.

Q Now, Mr. Hoinisch, upon your arrival in Flossenburg in which block did you live first?

A From the 6th until the 27th of February I stayed in Block 21.

Q Will you explain to the court the nature of that block during the time you were there?

A My reception in Flossenburg was really pretty bad. The block was a cold drafty barracks and it was called the horse's stall. There were 350 men there. We each had one blanket with only three to four men in one bed. In the evening when we arrived we didn't get any more to eat. We were exhausted from the trip, hungry and weren't able to

(Hoinisch-direct)

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sleep. We were chased out of our beds early in the morning and we had to stand out in front of the barracks for half an hour or longer. Captain Fritsch, the leader of the protective custody department ran around in front of us with a cocked pistol and said, "You rogues from Auschwitz, I am going to shoot you all to hell." He meant by that that we were political prisoners that we were traitors and that we had fought against the national socialism.

Q Upon your arrival to Flossenburg, what color triangle were you given?

A I wore a red triangle the whole time. Until the 17th of February, 1944 I wore a red triangle in Flossenburg. On the 17th of February I was dragged to the political department and the pretext was that they wanted to fix up my nationality. They explained to me that Germany had taken over the Polish territories and in view of the fact that I had been formerly a German I was now to be considered German. But I didn't want any part of it.

Then, after being severely mistreated, I was forced to sign a list which I wasn't allowed to read through before I signed. After I had put down my signature they told me that in Flossenburg they knew how to break my political pride and my political arogance. "You have come here in order to be destroyed. You are going to wear a green triangle from now on. You are a traitor of your country." I bowed to my fate. I had to bow to my fate and I had the conciousness that the green triangle would not debase any inner convictions.

Q Now, Mr. Hoinisch, how soon did you move into block 4 in Flossenburg?

A At 10 O'clock in the morning on the 27th of February I was transferred to block 4 and at the same time I was put into the Messerschmidt armaments.

(Hoinisch-direct)

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Q Then you were sent to block 4 were you given any duties there?

A No, I didn't have any incumbencies, any duties in the camp. I rejected them because they didn't agree with my attitude and with my opinions. I never wanted to work hand in hand with these people. These people who destroyed my life and the life of the members of my family.

Q Now what detail were you assigned to work on in the Messerschmidt factory?

A I was put in the Division C-1, the middle hall.

Q What kind of work did you do in the Messerschmidt Factory?

A I finished the ailerons of the airplane.

Q How long did you work on that detail?

A I worked in this hall until the 15th of July.

Q What happened to you then?

A I was transferred to division 11 on the 15th of July.

Q What did you do when you were transferred to Division 11?

A I was very much amazed because of my transfer. I didn't know why I was sent there. But a capo immediately showed me what I had to do there. He said, "You are a good worker, you know what you are doing and you are going to become a group leader." I refused. An hour later the leader of the commando came and the capo told him about it. They were the first hard blows that I got in Flossenburg. The leader of the commando attacked me with hands and feet and worked me over thoroughly and said, "You are still going to be a group leader."

Later on I didn't regret that I had accepted it because it went to help the group. It was for the benefit of the group. I had 20 people under me from 15 different countries. I understood their languages and got along with them very well. Because I was an interpreter I could avoid a lot of commotion and troubles in the hall. Usually the

(Hoinisch-direct)

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friction which existed between a capo and his men was the fault of the fact that they couldn't make themselves understood.

Q Mr. Hoinisch, will you explain to the court how many languages you speak?

A I speak 4 languages and I underwtand the others, and in a pinch I can make myself understood. All the slavic tongues and I understand most all of the Western tongues.

Q How did you acquire your knowledge of these languages?

A I taught myself these languages during the years of my arrest and also in the concentration camp. I was a quiet man, reserved, and I utilized every moment to read and to learn. During the long time that I had in confinement I never had any connection with the SS or with the prisoners. I can prove that best by showing that none of the accused know me here except a few that were in the same block with me.

Q Now, Mr. Hoinisch, when you were group leader in the Messerschmidt factory, what particular work did your group perform.

A My group had to do introductory work preparatory work, for the other groups, and the work consisted of building airplane fuselages.

Q As a group leader, did you wear any kind of identification?

A I wore a round red badge in my button-hole part of the time when I was a group leader, and the LG was on it.

Q You said that you had about 20 men working under you, is that correct?

A The number was not always definite. It varied, vascilated between 10 and 20.

Q Will you ex lain to the court the difference between a group leader and a capo?

A There was a witness here, Haffel, who said that a group leader was a wash rag which people rubbed around, and he was right. That is really right. In the hall there about 8 group leaders, 2 assistant

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capos and 2 capos. The capos had responsibility too and t ey had their annoyances and trouble with the people but they put all these troubles and vexations on the group leaders.

Q Just what was your responsibility to the group as a group leader.

A I had to work myself, and beside that I had to supervise the work and I had to collect the group together and check that the work was done well and cleanly.

Q How long did you continue to be group leader in this detail where you worked on fuselages?

A I was group leader until the middle of February, 1945.

Q What happened to you then?

A Then the night and day shifts were amalgamated. Then a group leader from the night shift came into my group and from that time on I was active in the hall as an interpreter.

Q How long did you continue to be an interpreter in the hall?

A Until the 3rd of April, '45 I was acti e in t e hall as an interpreter.

Q During the time that you worked in the Messerschmidt factory what block did you live in?

A At th t time I was quartered in block 4.

Q Did you, as a group leader, have any duties in block 4?

A No, neither a capo nor a group leader had anything to say in the block. He didn't have any more rights than the other prisoners.

Q Which wing of block 4 did you live in?

A B wing.

Q Did you continue to live in that wing all of the time that you lived in block 4?

A Yes.

(Noinisch-direct)

Q During the time that you were living in "B" wing of block 4 about how many men were living there with you?

A There were 150 men quartered in the block when I was transferred there in the month of February.

Q Did that number remain the same during the entire time you were there?

A No.

Q Explain the change that came about in the number of men in this wing of the block during the time you lived there?

A The stream of people from other camps began in August or September.

Q What did that do to your block?

A Three to four hundred men came into the block, into each wing and they had to sleep in the same beds with us and 5 to 6 men utilized one locker.

Q Will you explain to the court the nationality of the men who lived in "B" wing of block 4 with you?

A In our block there were Poles, Russians, Czechs, Slovaks, Yugoslavs, Italians, Frenchmen, Belgians, Dutchmen and other nationalities which Germany had conquered. They were all represented. Even Spaniards were there.

Q What was the nature of your association with the men who lived in "B" wing of block 4 during the time you were there?

A I didn't have any personal contacts with anyone in the block. I built myself a little table and sat always in the corner, alone, by myself.

Q Did you ever know a man by the name of Morris Rendel living in your wing of block 4?

A Yes, I know Rendel.

(Hoinisch-direct)

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Q Explain to the court that which you know about Rendel while he lived with you in "B" wing of block 4?

A Rendel came to the block in the month of August or September. He was rather dirty and neglected from the beginning. He proved to be a great thief and he stole everything that wasn't nailed down and dragged it to the black market. Just as his external appearance was filthy, that is the way his character was. He kept up homosexual friendships. He let them give him presents and had intercourse with them.

Q Did you ever have any personal contact with Morris Rendel?

A No, never. I forbade him to ever come near me because whenever I thought about him and his activity I would lose my appetite. I would have to vomit. I often said it right to his face, that he should keep away from me. I didn't hate him but I despised him just as you would despise a man who is so gone to the dogs. It was possible for a man to keep clean in a concentration camp, but he didn't do it. Otherwise I had nothing to do with Rendel.

Q Was this Morris Rendel that you speak about the same man that testified against you for the prosecution?

A Yes, that was the same man.

Q Was that the only man by that name that lived in this wing "B" of block 4 during the time you lived there?

A No, in the same block lived his father and his 2 brothers. I lived in concord and peace with the relatives of Rendel. Every day I would give them food. But I couldn't make out with Rendel. I didn't want to have anything to do with him.

Q During the time you lived in "B" wing of block 4, did you every come in contact with the man by the name of Sendrovics?

A Yes, I came in contact with him.

Q What was the nature of your contact with him?

(Heinisch-direct)

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A I learned to know him in a very bad way.

On the 18th of February, 1945 Sendrovics was transferred from a transport to block 4.

Q Proceed with your explaination of Sendrovics.

A He was transferred into a bed near me. He lay in the bed with Rendel and another prisoner, a Frenchman, in the same bed.

Q Did you ever have any trouble with Sendrovics?

A Twice, I had a slight argument with him and once I had a hot argument.

Q Explain the nature of these difficulties, these personal difficulties that you had with Sendrovics.

A The first trouble I had with Sendrovics concerned his sickness. Sendrovics had bladder trouble, and wet his bed. I noticed that because there was a penetrating stink coming out of the corner and I asked the orderly to see whether someone had dirtied his bed. They searched his bed. They searched through all the beds and they found that the sheets in Sendrovics' bed were rotted. Not only that but under the sheets in the bed he had relieved himself during the night and he had hid the excrement under the covers there.

I protested against that. I demanded another bed or else they would have to take Sendrovics away from me. But the clerk who had charge of wing "B" was of a different opinion. He had Sendrovics carry his things out to the open air and let them dry out and he had to take the excrement, hold it in his arms and stand up in front of the block and everybody who passed him going in or out of the block had to make saucy remarks

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to him. I wouldn't like to repeat these remarks because it is impossible.

That was his punishment for what he did.

Then I had a second collision with him concerning the clearing of the eating pots. Sendrovics didn't have any work and it was his task to clean up the kettles in the block but he never did it. He would lick out the kettles with his fingers and leave the kettles standing in front of the block. When, on Sunday, the kettles were standing in front of the blocks as usual, and the block eldest struck and kicked me and asked me why the kettles hadn't been carried into the kitchen I answered him that Sendrovics was the one supposed to take care of the kettles and he was being paid for that work. He went and got the man, beat him a few times in the face and Sendrovics had to carry the kettles away. He had him immediately relieved of his duties.

He was sore at me because he got 2 or 3 extra liters of food for that work.

Q Did you ever have any other kind of trouble with Sendrovics?

A The third trouble I had with him was rather insignificant.

On Christmas of '44 my children sent me a valuable sweater. I took this sweater into bed with me at night in order to keep it from being stolen. That was in this month of March. But one night the sweater was stolen out of my bed. I was upset and I hunted for my sweater.

Several Jews who knew me told me that Sendrovics

(Holzlech-direct)

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had been sniffing around my bed at night. I had to tell it to the block clerk.

He went and got Somdrovics and told him to undress. He didn't have any sweater on.

These two Jews came then as witnesses and told them he should look under his shirt. And there, under his shirt, against his bare skin, he was wearing 2 woolen sweaters. One of them I recognized as my property. He had to take it off and hand it over to me. At first he refused, and he maintained that he had bought it in th black market but in the left side of the sweater there was a large knitted initial.

He beat me in the face he was so angry and made remarks about me. Then my patients was lost and I went after him. But the block clerk jumped in between and gave us both blows in the face. He told him to keep quiet and asked him whether he wanted to insult me. Then the block clerk made the decision how he would be punished and I said to him, "You have already hit him a few times in the face. That is enough. The main thing is that I got my sweater back." But the clerk still punished him by ordering him to clean up the toilets for the next two weeks. There were 800 men in the block and the toilet was very often dirty. He had to clean it up. He had a lot of work to do.

Q Mr. Hoinisch, explain to the court what you had to do, if anything, with transports that were formed from block 4?

A I never had anything to do with transports. Besides that transports never came into the blocks or

(Hoinisch-direct)

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arrived in front of the blocks but were drawn up on the roll call square.

Q D'd you ever have anything to do with the transports on the roll call square?

A No. On such occasions the space would be cut off by the block eldest and the SS and during that time the prisoners would not be allowed to leave their blocks. This prohibition of going out would only be lifted after the transport had shoved off again.

Q Mr. Woinisch, explain to the court what you had to do with washing people in block 4.

A I didn't bother with anything that went on in the block. I didn't have any reason or any right to wash people and I wasn't fit for washing people. The only thing I had to do was to act as interpreter between Doctor Oberskolski and the Russians when he had trouble with them. That was all I had to do.

Q Will you explain just what equipment was located in the washroom of block 4 to provide you facilities for washing yourselves?

A In block 4 we had a washroom. The entrance gave out on the corridor. It was a space with 2 windows, 6 meters 30 centimeters long, 4 meters across, around 3 meters 50 centimeters high. And the way the water was set up was just like this:

In the middle of the washroom close to each other there were 2 water troughs. These leaden troughs were 35 to 40 centimeters broad and 35 centimeters in depth, and came down to a point at the bottom. There

(Woinisch-direct)

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were six water faucets attached to these troughs and each trough had a place where the water could always leave it. There wasn't any kind of plug there. It was merely a small perforated area. There were about 20 holes bored there. About an avera e circumference of six centimeters. On the left side there were two containers for refuse and in the right side was a cell with old cans of sand and soap and there was also a bucket with utensils for polishing your shoes. Above them the ladles hung which they used to dispense the food at noon.

PRESIDENT: Mr. McKay, the court feels that some of this evidence that the witness is bringing out at the present time is more or less immaterial unless we are going to be able to connect it up later on. The court wants to allow this particular accused a certain amount of freedom in his testimony, but at the same time the court feels it must stick to material fact. The court is referring to the detailed description. If these matters are going to be connected up, all right.

Q Mr. Hoinisch, what was the distance from the pipe to the troughs where the water was carried and where you washed yourselves?

A The distance was about 50 centimeters.

Q Will you explain to the court what, if anything, you have had to do with the Jewish transports that were formed to leave Flossenburg at any time?

A I never had anything to do with a Jewish transport.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court took a short recess in place.)

PRESIDENT: The court will come to order.

You may continue Mr. McKay.

QUESTIONS BY DEFENSE COUNSEL

(Hoinisch-direct)

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Q Mr. Hoinisch, the witness Sendrovics, who testified against you stated that you ordered a Russian to remove the shoes from a victim which you were supposed to ha e killed. Will you explain to the court what connection you had with that incident?

A I never had to rely on the shoes of any other prisoner in Flossenburg. We all wore our own underwear, our own clothing and our own shoes. I would never throw away my leather shoes and put on the wooden shoes of another prisoner.

Q How did you get leather shoes?

A I received 2 pairs of shoes from home and I also received some suits and underwear. Of course they had to mark these suits with the mark of the concentration camp.

Q Will you explain to the court what happened to you before the evacuation of Flossenburg?

A I was forced into the so called camp police before the camp was evacuated.

Q What do you mean you were forced into the camp police?

A I merely want to say that there was no figment of voluntary enrollment there. We had to go into it. We were forced into it, and I saw evidence of this pressure that was put on us because on the day of the march I saw 2 camp policemen shot to death. They were shot to death because they refused to carry out orders. I knew one of them who was from East Prussia, and his name was Hallrechs. The other one was unknown to me.

Q Who made up the camp police?

A The camp police consisted of police made up of prisoners who had led the other prisoners.

I would like to make a remark here.

The camp police was founded in order to protect the camp when

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the SS had left the camp. The camp police were supposed to turn the camp over to the swedish Red Cross or the troops which were approaching.

Q When were you taken into custody by the Americans?

A I was arrested by the Americans the 25th of May, 1945, and in a very peculiar fashion.

Q What do you mean by, "A very peculiar fashion."?

A I had already been, for 6 weeks, a free man in civilian life. The American troops had given me quarters and food and later on I had the opportunity to go back home to Upper Silesia and I was taking the evacuated families with me in my car. We were driving in the direction of Schwandorf. One mile from Schwandorf we were attacked by a band of 30 or 40 former prisoners from Buchenwald and from Oerndorf. They plundered the car and killed the two families and I took off and ran into the hands of an American transport train. I asked them for protection and they took me along to Nassvandorf with them. In Nassvandorf there was a certain Pole. His name was Krokovski. He was a spy of the CIC. He called me an SS officer but his grounds were not valid and I immediately brought witnesses to prove that. Then he was of the opinion that I had been the camp eldest in Flossenburg and that I had hanged people. That would be about all.

Q During the time that you worked in the Messerschmitt factory did you ever come in contact with Hauser?

A I didn't know Hauser in the factory at all. I only knew him in the block. But I didn't have a real connection with him. I only carried on conversation with him in the block. But I didn't find out his name until February, 1945 when we both had the day shift.

(Heinisch-direct)

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Q Did you observe how Hauser treated prisoners in block 4?

A I can only tell you about what I saw.

Hauser was always surrounded by Jewish prisoners and they had formed this knickname for him. They had called him the capo of the Jews. He would be visited by people from other blocks, presumably his workers, but I never got involved in conversations and I didn't have anything to do with him.

Q Did you ever know a man by the name of Matzke in block 4?

A Yes, Matzke was also in the block. Matzke was a prisoner who came from Auschwitz with me, a political prisoner.

Q Did you observe how Matzke treated prisoners in block 4?

A Matzke was an ~~unbearable~~ tolerable man who could be easily irritated. He suffered from rheumatism of the joints and when the weather took a bad turn he would be very touchy. Later on I never went near him because he was too touchy for me.

Q Did you every know a man in Flossenburg by the name of Lipinski?

A Yes, I knew Lipinski as camp capo.

Q Did you ever see him with prisoners?

A I only saw him once when I was forced to work with him. That was in March. I collapsed in the Messerschmitt factory. I had an attack of weakness. They brought me back to the camp. The Adjutant received me in the camp and asked me where I was going. The two prisoners who were supporting me said that I had collapsed and the Adjutant, Baumgartner said, "I will help you on your feet again, come along." He took me up to the clerks office and worked me over with 25 blows with a stick and then he called the foreman from the detail in the camp and he said to him, "Here take this rascal. Make him carry stones until evening falls."

(Heinisch-direct)

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This group leader from th detail took me to a pile of stones and I had to drag stones around.

I asked the foreman where the other people were and how come I was the only one there. He said that was none of my business. I asked him whether someone couldn't help me. The stones were too big. He finally brought two prisoners over. They were supposed to help me but there wasn't any wooden litter and nothing that you could carry stones in. I stood in front of the pile of stones like an ox in front of the gate and the stones were too heavy to be carried.

Adjutant Baumgartner showed up again and beat us with his whip and asked us why we didn't take the wagon. The wagon was standing over on the side. It didn't have any boards in it. It was unusable. I called his attention to the fact that the wagon couldn't be used. He jumped over to the foreman Lipinski and he beat him a few times in the face and asked him where the boards were that belonged to the wagon. Lipinski said that he couldn't be everywhere at the same time. He couldn't guard everything. He got some more blows and the Adjutant said that he was coming back in one hour and if the wagon was not fixed up then the whole column would get beaten. Lipinski whined, scolded and cursed. Finally he went over to the cabinet maker's shop and stole some boards and we fixed the wagon so that it was more or less in order and we continued our work.

At noon the column had to fall in to be counted off. That was the common procedure at noon before eating.

I was standing together with an old weak Jew on the square. The column had already dispersed somewhere.

Lipinski had all kinds of trouble trying to get the people together in order to send them to the noon meal. After the lunch had

(Heimisch-direct)

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been eaten the work started again. When I went over to the wagon and wanted to take it over to the pile of stones to do my work I saw that the wagon was out of order again. The boards were missing. Either Lipinski was actually a fool or they considered him a fool. He was the camp capo for 2 or 3 days and the people took advantage of that to a great extent. And so we worked in the afternoon without a wagon.

Finally the end of the work came and we were all glad that the work had ended and I was personally glad.

When I got to my block after the end of work I saw that a pile of wood was lying in the block. I told the orderly, "You sure have had luck, where did you find that wood?", and he said that the foreman of the detail in the camp had sold him 4 boards. I kept quiet and laughed up my sleeve because I knew that they were the boards which came from Lipinski's wagon.

That is all I can tell you about Lipinski.

Q Do you know where Hauser is today?

A Hauser is sitting here in the dock.

Q Point him out.

A Number 18.

Q Do you know where Matzke is today?

A Matzke is also sitting in the dock.

Q Point him out to me.

A Number 26.

Q Do you know here Lipinski is today?

A Lipinski is here also.

Q Point him out to me.

A Number 20.

[illegible]: Let the record show that the accused wearing number 18 is Hauser, that the accused wearing number 26 is [illegible])

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Mataka and that the accused wearing number 23 is Lipinski.

2. Mr. Heimisch, is there anything else that you want to tell the court about the specific testimony that has been given against you by prosecution's witnesses in this case?

A I would like to make a short explaination to the court in regard to the witnesses who appeared against me. I would like to touch upon both these witnesses with the same pencil.

Both of these witnesses were good friends in the camp and it can be assumed, in fact it is certain that, as I will prove with my testimony, they fabricated their testimony with their imagination. Neither the time nor the circumstances agree with the story. Rendel, for example, maintains that after 8 o'clock the block eldest came into the wing and dragged a man out of bed. I must emphasize there that the block eldest never came into the dormitory in Wing "B" because the block clerk was the boss there and if it was already 9 o'clock he would be in bed already, himself, and the same thing applies to the washroom. It was locked up at 8:30 and wasn't opened up again until the next morning at 5:30. Rendel maintains that he went to the washroom at midnight and had seen the numbers written on the breasts of the dead men, but at night the washroom was locked up.

The clerk of the block and the orderly always took the numbers of anyone who died in the afternoon and the orderly was the one who kept the colors in his custody. That would have been a new witness of my teeth. Furthermore, he maintains that I was supposed to have washed him. Without thinking anymore about it he has scrounged together a lot of evidence against me and has built it up on a pedestal of lies. He didn't think about the actual circumstances. I can say with certainty that Rendel spoke and acted against me with

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nothing but pure hatred toward me and aversion toward me.

Every week I would get packages of food and he often tried to get in my good graces in order to get something from them. I admit that I usually chased him away with very rough words. I supported his father and his brother.

That is Rendel.

And now I will touch upon Sendrovics. He was a man who was, at most, in the block from 4 to six weeks. He would come to the block and feed himself up. Looking at him as a whole he was a handy man of the block eldest, who was a brutal and feared man. He stuck together with this man. He had to take care of the kettles, clean up the room and, as a Jew, seemed rather arrogant. When he maintains that I called together a transport it can't be right because the transports were never organized at the blocks. They were always on the roll call square and the area was cut off very severely on such occasions. He maintains that on one occasion I searched through the pockets of the block. This always took place at the roll call square twice a week. The SS carried it out and they did it without exception to any religion or status of any prisoner and even the capos had to open their pockets. The things they were looking for were not objects of religion but knifes. Nobody ever took a crucifix or a religious article away from anyone. Not even the SS, because I always wore a medallion around my neck and nojone ever took it away from me. And, moreover, Sendrovics said that I beat a man to death. I never mistreated or beat a man or killed a man during the whole time that I was in confinement. I kept to myself because my fate was hard enough and I had enough trouble taking care of myself.

That is all I have to say.

(Heinisch-direct)

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PRESIDENT: Anything further, Mr. McKay?

DEFENSE COUNSEL: Nothing further, sir.

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Thereupon the court adjourned until 0900 hours 3 October, 1946.)

CA/GI 13 Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Case No.

*~~Summary~~

*~~Intermediate Military Court~~

*General

Place DACHAU, GERMANY

Date 3 October 194 6
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:

GEORG HOINISCH
EDUARD REHN

Pages 4502 - 4584 Incl.

Prosecutor

Defence Counsel

Interpreter

Reporter

Accused FRIEDRICH BECKER, ET AL

Address Sex Age

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

Imprisonment — Term .....
Beginning 194

Fine — Amount .....
To be paid before 194
or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES Versus FRIEDRICH BUCHER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

3 October 1946 0900-1700 Hours Pages 4502 - 4584 Incl.

T E S T I M O N Y

WITNESSES	Direct	Cross	Redirect	Recross	Court
GEORG HOINISCH		4502 4517	4530 4543 4551 4553	4537 4544 4546 4550 4552	4546
EDUARD NEHN	4556 4559	4571	4578 4582	4582	4579

E X H I B I T S

No.	Description	Marked	Rec'd in Evidence
P-70	Statement, Hoinsch	4531	4543

Camp Dachau, Germany
8 October 1946

MORNING SESSION

(Thereupon the court reconvened at 0915 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business for the prosecution; all personnel of the defense is present, with the exception of Major Coding, and Mr. Hall, who are absent on business for the accused; all accused are present, with the exception of Oswald, Olschewski, and Buddensieg who are sick in the hospital, and Doctor Schmitz, who is conferring with counsel, and the interests of those named accused are being taken care of by their counsel. If there are any spectators present in the court room who expect to be called as witnesses, will they please leave the court room?

PRESIDENT: The court has appointed Beatrice Marshall as reporter. She will be sworn.

(Thereupon Beatrice Marshall, an American civilian, was duly sworn as court reporter.)

PRESIDENT: Is this a continuation of direct examination, Mr. McHaney?

MR. MC HANEY: I have completed my direct examination. You may cross-examine.

PRESIDENT: Cross-examination, Mr. Berkowitz.

GEORG HOINISCH, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Hoinisch, when did you arrive in Flossenburg?

A The 6th of February, 1944.

Q When did you have your interview at the political department?

A It was the 17th of February.

Q You stated you were mistreated during your interview at the political department. Will you state the nature of that?

A I was brought into the camp from my work where we were building streets. When I got to the camp I found out I was supposed to go to the political department. I was brought up there and when I got there the secretary of the political department was supposed to be there. His name was Muhlhaupt. I can be sure about the name because I heard it later. Also the adjutant, Baumgartner, was present, and later on the roll call leader, Kuebler, came in, then the interrogation started.

Q Will you tell us how you were mistreated during the interrogation?

A I got my first blows when I refused to sign the list. It was the secretary who hit me. As I staggered and fell over towards Kuebler, he also beat me. And Baumgartner said, "What are you trying to do --attack the people?" And he started hitting me, too. I asked that they read this piece of writing to me. They refused to do it and made the remark, "You haven't got the right to ask for anything. You are only a number and a slave, and we order you to sign this piece of writing." And then Kuebler started beating me again, and under this duress I had to sign this piece of writing.

Q How many times were you struck during that interview?

A I couldn't determine the exact number of blows. It lasted ten to fifteen minutes.

Tm 429 10-3-bob-3

Q What was your condition after you were mistreated?

A After the interrogation I was brought back to my work, but I was scarcely in a position to work -- scarcely capable of working. The commando leader of the work saw that I was incapable, and took me into the room and interrogated me about the interrogation, and I kept quiet about it. And then the leader of the commando -- of the detail -- also hit me in the face. I had to go back to my work and carry heavy stones. At noon I came into the camp dog tired. I wanted to stay in the barracks in the afternoon. Then the protective custody leader, Fritsch, personally came and got me out of the barracks. He said, "You aren't in your wild business -- in your resistance movement now. You are in a concentration camp here in Flossenburg." He said, "We will break your resistance with the most extreme force here in Flossenburg." He had me taken back to work and had me turned over to the capo, Heinrich Zimmer. I was sick for a number of days, but still I had to do the work -- had to drag myself to work.

Q Now, were you in the punishment company?

A When I was there there wasn't any punishment company.

MR. BERKOWITZ: Just a moment. Will the court indulge me for just a moment?

PRESIDENT: Do you want a short recess?

MR. BERKOWITZ: No, sir.

Q Didn't you make a statement that you were sent to a punishment company on the 18th of February, 1944?

A I was in the detail that was building streets, but I don't know whether that was the punishment company or not. It certainly wasn't carried on as a definite punishment company, but it was still worse than a punishment company.

Q Will you answer my question? Didn't you make a statement in your own handwriting that, "On the 18th of February I came to the punishment company in the Flossenburg concentration camp"?

A The 18th couldn't be right. That is the wrong date, because I arrived on the 6th, and next day I was immediately sent to the street building detail.

PRESIDENT: Mr. Berkowitz, will you clarify that question -- that explanation?

Q Answer my question, please. Did you or did you not make a statement in your own handwriting, stating, "On the 18th of February I came to the punishment company in the Flossenburg concentration camp"?

MR. MC KAY: The question is objected to as being in improper form in that it is not clear as to when this statement was made or where it was made or the circumstances of it being made

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

Q At the beginning of the year 1946 -- January or February, 1946, here in Dachau, did you or did you not in a written statement in your own handwriting write, "On the 18th of February, 1944, I came to the punishment company in the Flossenburg concentration camp"?

A That is possible.

Q Did you state at that time that you were badly maltreated on your arrival?

A Yes.

(Heinisch-cross-examination)

Q You stated that the work was hard and the treatment and the food were inhuman, the block eldests were brutal and rough?

A That is right. That is nothing but the bare truth.

Q Did you say also that the camp eldest, Mathei, was a brutal beater?

MR. MC KAY: This question is objected to as going beyond the scope of direct examination.

MR. BERKOWITZ: May it please the court, this witness has testified as to conditions in the camp and as to its administration. The camp eldest was part of that administration, and my question directed to that issue is pertinent as part of the examination of the witness in developing what was brought out in direct examination.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

Q Did you in that statement say the SS in the concentration camp was terribly strict and tended towards maltreatment?

A Yes, I said that and it is nothing but the truth.

Q Did you say in the statement that because the food was bad the people couldn't keep up their work?

A Yes, I also said that.

Q Did you declare in that statement that you saw an execution of prisoners at the Christmas tree at Christmas, 1944?

A Yes, I had to be there, but there were other prisoners there, too.

Q Now, did you state that the greatest bandits were the camp eldest and block eldest, Karl Mathei and Anton?

(Weinisch-cross-examination)

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MR. MC FAY: That question is objected to as going beyond the scope of direct examination.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

Q Now, two witnesses who appeared against you were Rendel and Sendrowicz. Did you know these men personally?

A Yes.

Q Did they know you personally?

A Yes, we knew each other in the block.

Q Is there any doubt in your mind that they knew you personally?

A Yes, they must have known me, because we were quartered in the same bunker.

Q Did you know all the details to which you testified yesterday -- did you know these facts at the time they testified?

A Yes.

Q Did you at the time they appeared here to testify against you -- did you cross-examine them on the items which you mentioned yesterday?

MR. MCKAY: The question is objected to as being improper in form. This man has been represented by counsel and as counsel is given the discretion of what cross examination and what cross examination not, and if his attorney, out of his belief in procedures to follow, doesn't choose to use such type of cross examination, that is nobody's business whatsoever.

MR. BERKOWITZ: I withdraw the question for the time being.

PRESIDENT: Proceed.

(Heinisch-cross examination)

Q Knowing these facts or these details at the time these witnesses appeared against you, did you or did you not inform your counsel concerning them?

MR. MC FAY: I object to that question. That goes into a privileged communication.

MR. BERVONITZ: I haven't finished.

PRESIDENT: Proceed.

PROSECUTION: The court may advise the witness that any communication he had with his counsel was privileged. He may or may not answer that question.

PRESIDENT: It isn't necessary to advise the accused before a military government court of his rights in that respect. The objection of defense counsel, Mr. McKay, is sustained.

DEFENSE COUNSEL: May it please the court, I think that it is quite improper that such a question as that should be asked in the first place. It is fundamental that communications between accused and counsel are privileged, and I wish again to point out that the second of this tabulation of rights of the accused reads as follows: "To be present at your trial, to give evidence, and to examine or cross examine any witness." Now, if defense counsel had insisted on the letter of the rights being followed we could, under this charge of common design, have had every one of these fifty-one men in the dock cross examine every prosecution witness directly, without intervention of counsel, and we would have been absolutely within the rights as laid down in the War Crimes Manual, and the case naturally would have lasted ten years. Now, we have followed the usual American procedure of letting the counsel handle these things,

and I feel it is quite ill advised in view of the type of conduct that has prevailed in the case, that is, in the way prosecution has been handling it, quite ill advised for the prosecution to attempt to inquire into this type of thing and force us to object and get a ruling from the court every time. In other words, the general atmosphere of the case has been that the rights of the accused have been handled by their counsel and I think that general atmosphere should prevail and be observed between counsel and accused, and not entered into at this time.

MR. BERKOWITZ: May it please the court, in cross examination, the cross examiner has the right to ask such questions. The witness may claim the privilege of refusing to answer, but the question is proper to throw light on the examination of the witnesses used against him.

DEFENSE COUNSEL: What Mr. Berkowitz states is perfectly true. It comes within the letter of the law, but it would come within the letter of the law to have fifty-one men not trained in the law to come up here personally and cross examine the witnesses. I am not, of course, attempting to suggest how the prosecution should run its case, but I do suggest that as a matter of convenience and adherence to the spirit of the proceedings so far followed, much time would be saved if the prosecution were to abstain from such inquiries, because if such inquiries are made, the defense must, of course, object.

PRESIDENT: The court appreciated the matter which you mentioned, Colonel Wilson, at the very start of this particular trial, and that is that the reason arrangements were made with the various defense counsels was that cross examination would be

(Heinisch-cross examination)

'48 10-8-bab-8

confined under normal conditions to the respective defense counsels interested in the matter at hand. The court has already rendered a decision in this particular matter. At the same time it feels that the court should caution you, Mr. Berkowitz, about questions of that nature -- that is, going into the matter of privileged communications.

QUESTIONS BY MR. BERKOWITZ: (CONTINUED)

Q Now, Mr. Heinisch, you state the commando leader had beaten you. Will you tell us who that was?

A When I got to Flossenburg I didn't know the commando leader.

Q Did you know a man in your block by the name of Reivenbach?

MR. MC KAY: If it please the court, this is objected to as going beyond the scope of cross examination. Time and time again the prosecution has resorted to this method of introducing testimony on other statements that they have. I contend this is improper. If these witnesses are available they should be called into this court room to testify.

MR. BERKOWITZ: If it please the court, if the witness on the stand has stated he never mistreated prisoners, he opens the door to any testimony that may rebut that testimony, and that may be done by questioning him concerning any alleged mistreatments. If he denies them, the ground work is laid to refute the testimony offered on the stand. And that will be done, sir.

PRESIDENT: The court would like further information as to the individual mentioned in your question.

MR. BERKOWITZ: He is a probable witness against the defendant in rebuttal.

(Heinisch-cross examination)

PRESIDENT: In rebuttal?

MR. BERKOWITZ: Yes, sir.

PRESIDENT: Is he available as a witness?

MR. BERKOWITZ: Yes.

PRESIDENT: Objection of defense counsel, Mr. McKay, is overruled.

QUESTIONS BY MR. BERKOWITZ (CONTINUED):

Q Do you know a man by the name of Reivenbach in your block?

A No.

Q You stated a while ago that you never searched the prisoners in your block. Now, isn't it a matter of fact that you did search prisoners and on one occasion removed a gold medallion sewed under a number of one of the prisoners' uniforms?

MR. MC KAY: That not only goes beyond the scope of direct examination, that goes beyond the scope of the record.

MR. BERKOWITZ: If it please the court, the witness has testified that he never searched prisoners. I am asking him about one specific incident.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is overruled.

A If a prisoner had a gold medallion with him when he arrived in the camp, then as soon as he arrived it would have been taken off him in the bath because it would be gold.

Q Will you answer my question?

A No, I didn't do anything like that.

Q Did you ever beat a prisoner when he received only half his soup allowance from you?

A I never dispensed food.

(Heinisch-cross examination)

Q Did you ever beat a prisoner with a gunny or a club?

A No.

Q Did you have a man in your block by the name of Alois?

A Alois was the first name of the block eldest.

Q What was his second name?

A Steller.

Q Did this man have a nick name in the camp?

MR. MC KAY: This question is objected to as irrelevant and immaterial.

MR. BERKOWITZ: If it please the court, the witness has testified as to personnel of the block. I want to know who they are and to identify them. The court has seen how some of these people were known by their nick names. Jakubith was known as "Fipl" and not as Jakubith to many people.

MR. MC KAY: If he were asking for the nick name of any of the accused that would be perfectly proper, but he is asking for the nick name of a man not on trial and we do not even know who he is.

MR. BERKOWITZ: If it please the court, this is exactly what I am trying to find out.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

A I will have to make an explanation with regard to this question.

PRESIDENT: Mr. Berkowitz, the court appreciates that a nick name is no identification.

MR. BERKOWITZ: Yes, but we want him to identify who this man was. Will you answer my question.

A I know nick names in other camps, but in Flossenburg

the first name was the customary name, and besides that in Flossenburg nobody mentioned the name. I don't know.

Q You mean to say you didn't know the nick name of the block eldest in your block?

A I knew the name in Auschwitz. They called him that in Auschwitz, but the name was never mentioned in the block.

MR. MC FAY: That is objected to as irrelevant and immaterial. What the block eldest might have been known as in Auschwitz has no bearing in Flossenburg.

MR. BERKOWITZ: I will withdraw this question for the moment.

Q You mean to say this block eldest was not known by his nick name in Flossenburg?

A No, not in the block.

Q Well, was he later known in Flossenburg by his nick name?

A I didn't find out this nick name until a prisoner in the camp told me about it. I personally never heard about the name in Flossenburg.

Q What did you say the second name -- the family name, or Alois was?

A Staller.

Q Now, what was your relationship with Staller?

A I didn't have any relationship with Staller.

Q You were doing orderly duties for the block, weren't you?

A I was working in the Messerschmitt factory and didn't have any time to do work in the block.

Q When were you relieved as a group leader in the Messerschmitt factory?

A Not exactly relieved. The group leader from the other shop came into our group and I remained in the same group as interpreter, but I didn't carry the group identification mark any more.

Q Do you mean to say to the court that you had no duties in block 4?

A Yes, that is right. I didn't have any, that is true.

Q Well, didn't you act as assistant to the block leader — I mean block elder?

A Never, no.

Q You never carried out any duties whatsoever in the block?

A No, I wasn't equal to a task like that.

Q And you never rendered any service to the camp management by performing any duties of any sort, is that correct?

A No, never.

Q You never got any groups ready for transport?

A Never at the block.

Q Where did you get them ready?

A Not at all.

Q Did you never assist the block eldest in washing some of the prisoners?

A No.

Q You never assisted the block eldest in keeping the block in order?

A I would never have done anything to help out this block eldest.

Q Which block eldest?

A Block eldest Staller.

(Heimisch-cross examination)

Q Why not?

A Because first of all he didn't appeal to me. He was disagreeable and surly. He was a brutal man, both in the way he talked and acted.

Q You didn't get along with anybody in the camp, did you?

A Nobody in the camp had a close friendship to me or any intimate relations.

Q But on the other hand, you interfered in the affairs of everybody else?

MR. MC KAY: That question is objected to as being argumentative.

PRESIDENT: The objection of defense counsel --

MR. BERKOWITZ: If it please the court, I refer to part of the record on page 1772 in which a witness on cross examination was asked if he didn't know if Hoinisch was a quiet man, to which he replied: "I only know he butted into affairs that were no concern of his." Referring to the record, I asked the witness on cross examination either to affirm or deny that statement.

MR. MC KAY: That is very right, he may do so. But he should do so with a proper question.

PRESIDENT: The objection of defense counsel, Mr. McKay, is sustained. Rephrase your question.

QUESTIONS BY MR. BERKOWITZ CONTINUED:

Q Now in the cross examination of Moritz Mendel, who appeared against you, you asked: "Didn't you observe that Hoinisch was a very quiet man, sometimes reading?", and his reply was: "I only know he butted into affairs that were no concern of his." Now, was this statement correct or incorrect?

MR. MC KAY: The question is objected to on the ground

that it is an attempt on the part of the prosecution to state facts that are not true. The court was present when the cross examination was conducted by counsel on behalf of this man, and the man never conducted cross examination. It is always left to the discretion of counsel which questions should be asked in the counsel's professional estimation. It is not the province of cross examination to go into everything said in the record unless that fact is brought out by the witness' own examination. Cross examination is always limited to the witness' direct examination.

MR. BERENZ: If it please the court, the witness has testified as to his conduct in the block. There appears in the record a contrary statement. It is proper question to ask him whether this contrary statement concerning the facts he has already testified to on direct examination may be true or otherwise.

MR. MCKAY: I suggest the question be reframed.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled. The court will take a half hour recess.

(Thereupon the court recessed at 1005 hours.)

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MORNING SESSION

(Thereupon court reconvened at 1050 hours).

PRESIDENT: Court will come to order.

PROSECUTION: If it please the court, let the record show that all personnel of the court are present, all personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution, all personnel of the defense are present, with the exception of Major Ending and Mr. Hall, who are on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswald, who are sick in the hospital, and Dr. Schmitz, who is conferring with counsel. The interests of these accused are being taken care of by their counsels. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Continuation of cross examination, Mr. Berkowitz.

GEORG HOENISCH, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (cont'd)

QUESTIONS BY MR. BERKOWITZ (cont'd)

Q Now Mr. Hoinisch, while you were in Block 4 did you ever beat any prisoners?

A There was one case there which was a personal fight. Outside of this, I didn't beat anyone.

Q Who was this?

(Cross-Hoinisch)

A This was a Georg Kovkowsky, a Pole.

Q Why did you beat him?

A The food was handed out in front of the block and I had my food and wanted to return to the block and ran out of the door with all I had, and he ran over me and threw me to the ground with both my pots. It wasn't my food but food for a sick man for whom I had to get it. I told him not to run so fast. He called me all kinds of things and a fight started. The block clerk came and wanted to know about the fight I had started.

Q How old was this boy?

A He was a strong man. He was big and he certainly had more power than I had and he was younger.

Q Sure he wasn't younger than eighteen?

A I don't believe so.

Q Well, didn't you state in a former examination that he was less than eighteen?

A That is possible but then he would have been in Block 19 and not in this block.

Q Wasn't your recollection at the time of the interview better than at this time?

A That I can't say.

Q Wasn't your recollection at the time you made that statement to the effect that you were in the punishment company better than your recollection at the present time?

A I was asked to give a statement about my doings at the camp true to the fact and I did that. When I wanted to make a second statement and change things, they said "it isn't necessary. The first one is enough". Because I really looked upon this de-

(Cross-Examination)

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tail as a punishment detail.

Q You said it was a punishment detail at that time, didn't you?

A I looked upon it as a punishment detail, right.

Q And your recollection at that time was better than it is now.

A I can't say that.

Q How long did you remain in block 4?

A From February 28, 1944, until April 8, 1945.

Q What did you do after that date?

A On April 8, at 2:00 in the afternoon, I was picked up and taken to the camp police.

Q Were you given a uniform?

A I received this uniform on April 1.

Q What kind of uniform was it?

A It was the uniform like the soldier uniform.

Q Now did you as a part of the police accompany the transport that left Flossenburg?

A Yes.

Q What time of day did you leave?

A I left Flossenburg at 9:30 in the evening.

Q How long did you remain with that transport itself?

A I stayed three days with this transport.

Q Can you tell us in the direction that the transport traveled?

A In the direction of Dachau.

Q How many prisoners were in this transport?

A Eight hundred prisoners.

(Cross-Medinaah)

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MR. McKAY: At this time the question with regard to the transport is objected to as going beyond the scope of direct examination.

MR. BERENDITZ: If it please the court, testimony has been given as to the connection of this prisoner with the camp. The proper problems of cross-examination to examine his entire connection with the camp administration and his acts thereunder, and to inquire into the nature of his treatment of prisoners all during his connection with the camp, is proper.

PRESIDENT: The court understands Mr. Berkowitz, that your question is based upon the treatment of the prisoners.

MR. BERENDITZ: Yes, sir.

PRESIDENT: Objection of the defense counsel Mr. McKay is overruled.

A Eight hundred prisoners.

Q What were their nationalities?

A Poles, Russians and for the main part, Jews.

Q What was your connection with the transport?

A I was in a platoon and this platoon was commanded by a member of the camp police. We were put a ong the SS and we had to serve as escort guards, so to speak.

Q Did you travel on foot or by train?

A We entered the train at Flossenburg. Later on we had to walk.

Q Where did you get off the train?

A The next morning at 10:00.

Q Where was this?

(Cross-Hoinisch)

A It was in the open air. There was no village around.

Q Did you remain with the column until it was liberated?

A No.

Q Where did you leave the column?

A Near Rossbach.

Q Who was in command of the column?

MR. McKAY: That is objected to as going beyond the scope of direct examination. He is limited to this man's conduct and this man's conduct alone.

MR. BERKOWITZ: If it please the court, the question as to who was in command of the column was judicially as important as knowing who was in command of the block. The witness was affiliated with the camp and the conduct of the camp and its administration towards prisoners. Any information which throws light on that administration or that conduct is relevant and is proper cross examination.

PRESIDENT: The objection of the defense counsel Mr. McKay is overruled.

A The man in charge of the column was a First Lieutenant whom I didn't know. The second in command was a First Sergeant whom I knew.

Q What was his name?

A Wisshniewski.

Q Was he an SS man?

A Yes.

Q How many SS guards were there?

A There could have been 40 to 60 SS guards.

(Cross-Heinisch)

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Q How many camp police were guarding the prisoners?

A A whole platoon was ordered along but most discharged out on their way so there were thirty along.

Q Now did you see what happened to the prisoners on this transport?

MR. McKAY: If it please the court, this again is an attempt by the prosecution to force this witness to testify against other people in this dock which is wholly improper and is not part of the cross examination.

MR. BERKOWITZ: If it please the court, what happened to the prisoners during the march is perfectly relevant and perfectly proper.

PRESIDENT: The objection of defense counsel Mr. McKay is sustained. The court suggests, Mr. Berkowitz, that you make your questions more specific.

Q How many prisoners remained with the column at the time you left?

A I don't understand the sense of the question.

Q Well, you stated you left the column after three days. How many prisoners were in the column after you left it?

A There were about 800 men.

Q Do you know what happened to the other 200 men during the course of the three days?

MR. McKAY: That is objected to as going beyond the scope of cross examination. This man is responsible only for his personal conduct. He has made no statements on his direct testimony with regard to the evacuation and this is purely an

(Cross-Heinisch)

an attempt by the prosecution to force this witness to testify against accused in the dock.

MR. BERKOWITZ: If it please the court, it is perfectly proper to inquire into what happened to the prisoners and how they were handled, and that will be followed up by questions concerning the defendants on treatment of prisoners, and whatever contribution he made to handling or mishandling the prisoners.

PRESIDENT: The objection of defense counsel, Mr. McKay, is sustained.

Q Did you see any prisoners shot during that transport?

MR. McKAY: That is objected to because it goes beyond the scope of cross examination.

PRESIDENT: The objection is sustained.

Q What did the guards do during the transport of these prisoners?

MR. MCKAY: The question is objected to as not proper cross examination in that it goes beyond the scope of direct examination.

MR. BERKOWITZ: If it please the court, the witness has stated that he was a guard on this transport and it is proper cross examination to find out what the guards did.

PRESIDENT: The objection of the defense counsel is sustained.

Q What part did you play in this transport?

A I had the part of a guard.

Q What were the duties of the guards in this transport?

PRESIDENT: Mr. Berkowitz, the court feels that you had better amplify that matter as to whether there were several

different kinds of guards.

MR. BERKOWITZ: Yes, sir.

Q Were you an SS guard?

A No.

Q Were you a former prisoner guard?

A Yes.

Q Were the former prisoner guards armed?

A Yes.

Q What were the duties of the prisoner guards on this transport?

A To keep their place and march along side of the column.

Q To keep whose place?

A Along side of the column among the SS men.

Q You mean to tell me that you were marching along between the SS men merely to hold their place?

MR. MCKAY: The question is objected to as being argumentative in form.

MR. BERKOWITZ: If it please the court, I am asking the witness if these are the limits of the duties. It is proper to find out merely whether his going along was his only duty. The question is perfectly proper, sir.

PRESIDENT: The objection is overruled.

A We actually just walked along because we still felt ourselves to be prisoners and the leader of the camp police did not give any specific orders to us.

Q Didn't you get any instructions as to what you were supposed to do?

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A Not from the platoon leader of the camp police.

Q Did you get any instructions from the SS?

A No.

Q Did you get any instructions from any of the scharfuehrers of the SS?

MR. MCKAY: The question is objected to as repetitious.

MR. BERKOWITZ: If it please the court, I bring down the question to specific individuals as to the source of the possible instructions. I will withdraw that question.

Q Did you get any instructions in the camp before you left?

A Yes.

Q From whom?

A From the platoon leader of the camp police.

Q Who was he?

A I don't know his name.

Q What were your instructions?

A The orders were those that we had prepared on the outside. He said we were supposed to be guards and inside we already had determined to escape. No prisoner will be beaten and we certainly wouldn't fire because we couldn't even shoot.

Q Did he tell you they were the instructions given him by the SS?

A No, he didn't say that.

Q Didn't he tell you what instructions had been imparted to him by the SS?

A No. He told that on his own. I don't know whether he had orders to do so.

(Cross-Kolnisch)

ann right in front of the command building in the camp, is that correct?

A Yes.

Q What were those instructions again please.

MR. MCKAY: That is objected to as repetitious.

MR. BERKOWITZ: If it please the court, I do not remember specifically what the directions were. I do not know if the court knows. It is proper to have my memory refreshed and an explanation made of what the orders were.

PRESIDENT: Objection of the defense counsel, Mr. McKay, is sustained. If it is necessary, Mr. Berkowitz, we will have the reporter go back over the record.

(Whereupon the reporter repeated the question)

Q What do you mean, "Inside it had already been determined to escape"?

A Yes, we had an agreement with the camp police that upon the first opportunity we would escape. Of course we

(Cross-Examination)

Q How did he give these instructions to help prisoners, to all 30 of the camp police who were assembled there?

A Yes.

Q Where was that?

A In the camp.

Q What part of the camp?

A In front of the headquarters building.

Q Were there any SS men around?

A The SS men were assembled about ten meters away and received their instructions.

Q And he gave these instructions to a group of thirty

would have to make sure it was secure. We had agreed that we wouldn't mistreat any prisoners and no one ever fired.

Q Where was that agreement made?

A In the camp when we were still sitting in the barracks.

Q Which barracks?

A I was in barracks 4?

Q Well, didn't you leave Barracks 4 when you came with the camp police?

A The camp police barracks was No. 4 also.

Q Well, then, I ask you, when you left barracks 4 what did you tell me?

MR. MCKAY: It is objected to as improper in form. This witness said he never left barracks 4. He said he left Block 4.

MR. BERKOWITZ: If I am in error, I withdraw the question.

Q When you speak of barracks 4, do you mean the same thing as block 4?

A No.

Q Where was Block 4?

A Block 4 was in the prisoners camp.

Q Where was barracks 4?

A In the SS camp.

Q You moved out to the SS camp, is that correct?

A All policemen were put there.

Q And in the SS camp in barracks 4, you made an agreement prior to marching out that you would take no part in this evacuation march?

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MR. MCKAY: The question is objected to as improper in form and is argumentative to the extent that it is a misstatement of the facts as this witness has previously stated.

MR. BERKOWITZ: If it please the court, I am not stating any facts. I am trying to clarify something in my mind and in the minds of the court as to where this plan was organized and where it took place.

PRESIDENT: Mr. McKay, just what misstatement of fact do you refer to?

MR. MCKAY: He says that there was an agreement not to take part in the evacuation as the witness has previously testified, and that the agreement was not to shoot and not to beat prisoners, but there was nothing said about taking part in the evacuation itself.

MR. BERKOWITZ: I withdraw the question.

Q. Was it in barracks 4 of the 86 camp that the camp police got together and made an agreement not to shoot prisoners nor to beat prisoners in the evacuation march?

A That wasn't only in barracks 4. It was in the drill field at one time during chow. At any occasion everyone emphasized we would go through with our plan.

Q Will you answer my question. Was this agreement made in barracks 4 of the 86 camp?

A Among those people who were living there, yes.

Q How many were there?

A There were about 12 rooms with 16 men in there.

Q Twelve rooms with 16 men in them?

A Yes.

(Cross-Hoihisch)

Q What did you do on this transport?

MR. MCKAY: The question is objected to as repetitious.

PRESIDENT: Objection is sustained.

Q You said that you were armed, is that correct?

A Yes.

Q Is it a fact that you used your weapon on this transport?

A Never.

Q Is it a fact that you shot prisoners on this transport?

MR. MCKAY: The question is objected to as argumentative and that it exceeds the scope of direct examination.

MR. HERZOWITZ: If it please the court, I am not arguing with the witness. I am asking a direct question regarding the handling of the prisoners and I think the court is entitled to a yes or no on that.

PRESIDENT: Reporter, will you read the question?

(Whereupon the reporter repeated the question)

PRESIDENT: The objection of the defense counsel, Mr. McKay is sustained. Your questions are more or less repetitious, Mr. Herzowitz.

Q Did I understand you correctly yesterday when you said that you reached the rank of Colonel in the Hitler Youth Movement?

A That is a misunderstanding. I had the rank of a Bannfuehrer and later on, I took over the leadership of Oberbann and that I did only irregularly.

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Q Were you appointed to this rank in the Hitler Youth Movement?

A Yes.

Q Am I correct in stating that your conviction was for diverting the organization's funds?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. McKAY:

Q When were you investigated and interrogated prior to this trial's beginning?

A In March 1946.

Q Who was present in that examination?

A A member of the prosecution who is not here now.

Q Who was that?

A The man who used to sit in the second chair there where Mr. Berkowitz is sitting now.

Q Are you referring to the man who was a Sergeant here before?

A Yes.

Q At that time did you make any written statement?

A Yes.

Q In your statement when you referred to the fact that some of the block elders were bandits, did you refer to all of them?

A I have to make an explanation to this point. I was asked to draw a general picture of the camp as it was when I arrived. I told the Sergeant at the time that I would have to give

(Redirect-Heinisch)

two impressions. One when I arrived in the camp and another one when the whole thing changed later on. I wanted to stick absolutely to the truth but the Sergeant told me it wasn't necessary and for me to give only the impression I received when I arrived in camp. It is possible that I expressed myself harshly because my fate was in the hands and destroyed by the SS and maybe I got the wrong impression on my first arrival in camp.

Q Will you explain then what you meant when you made the statement that block elderts were bandits?

A I came from a camp which was taken care of differently and was humane.

MR. BERKOWITZ: If it please the court, an objection is made to the question. First of all, we do not have in the record the statement referred to by the counsel because it was excluded at his own motion. However, the quotation is incorrect and I will be glad to give the counsel the statement so that he may refer to it.

MR. BERKOWITZ: (to reporter) Will you mark this for identification as Prosecution Exhibit No. VO.

PRESIDENT: Any objection?

MR. McKAY: I have no objection if it is for identification only.

MR. BERKOWITZ: May it please the court, I do not have a sworn translation but I do have a translation which may be used as a basis for this examination.

PRESIDENT: Is there any question in your mind about it? We have an interpreter right here. The court will take a short recess in place.

(Whereupon the court recessed at 1115 hours).

(Whereupon court reconvened at 1120 hours).

PRESIDENT: The court will come to order.

REDIRECT EXAMINATION (cont'd)

QUESTIONS BY MR. MCKAY (cont'd)

Q Mr. Hoinisch, when you made the statement that the block oldests were brutal and rough, did you refer to the block oldests that were there when you arrived or during the entire time in camp?

MR. BERKOWITZ: If it please the court, the question is objected to. The document speaks for itself. The language is clear and plain.

PRESIDENT: The objection of the assistant prosecuter Mr. Berkowitz is overruled.

A When I first got into camp, I had the impression that it was more brutal in this camp than in other camps, and when they asked me in my interrogation, they asked me about the first impressions which I got in camp. I found out later that the camp was managed in a slightly different way which was not so bad and I wanted to put that down in writing, but the prosecuter told me it wasn't necessary to do that.

Q Then what do you mean when you say that the camp changed as far as your opinion of it is concerned?

A There wasn't any change which entered into the picture. But you learned to understand the system according to which Flossenburg was managed. When I arrived in Flossenburg I was tired and annoyed and that is the kind of impression it made on me, and that is the way I described it according to the truth.

Q Did you ask the interrogator for the opportunity to explain that?

A Yes, I even made a paper on that but I had to sign the other one, and didn't let me go through with the second one.

Q Were you at that time, when you wrote the statement, ever advised that that statement might be used against you in a future trial?

MR. BERKOWITZ: If it please the court, the question is objected to. There is no necessity for explaining to a witness or an accused who is going to testify or a person who is going to make a statement that it will be used against him. Therefore the question is immaterial.

MR. MCKAY: If the statement of the prosecuter is correct, then I see no position of the directives that have been published in war crimes for investigation teams to take statements under oath. I ask the court to take judicial notice of the fact that the directives which were propounded by the American War Crimes authorities for investigation teams that all statements taken in the investigations will be taken under oath so that they may be later used as evidence in a court room. At the time this man made this statement, there was no knowledge in his mind whether he was going to be an accused or not, and he should have been so advised so that he could guide his statement accordingly.

MR. BERKOWITZ: If it please the court, the probabilities were that in the minds of the investigators at that particular time, they didn't know whether the accused would be a defendant or not, but that is immaterial; the fact is that we have a statement made by the accused in his own writing. The rules do

not require that in order to come before this court any such statement must have been sworn to or listed after warning the accused that he might be a defendant or anything else. Any questions directed to that is immaterial and irrelevant. The statement doesn't pretend to be under oath. The question is irrelevant.

PRESIDENT: Mr. Berkowitz, the court directs you to cite your authority for the statement you just made.

MR. BERKOWITZ: If the court will give me just a moment--

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place at 1130 hours.)

(Whereupon the court reconvened at 1135 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: On page 206 of the Manual for the Trial of War Crimes and Related Cases", prepared by the Deputy Theatre Judge Advocate's Office, at the bottom of the page, Section 340, it reads, "All documents and other written instruments, which in the opinion of the court have a bearing on the issues before it and have probative value are admissible in evidence"-- and that goes on-- "including proceedings of boards and courts of inquiry, investigations by spectators, reports of war crime investigation teams, either in whole or in part, affidavits and depositions of witnesses, and so all documents and all written instruments in the opinion of the court of a probative value are admissible in evidence." Now certainly a statement made by an accused in his own handwriting has probative value.

PRESIDENT: That is not the matter the court was referring to. The court was referring to your statement, Mr. Prosecutor, to the effect that during the course of the investigations, it isn't necessary to warn the individual.

MR. BERKOWITZ: No, sir, it isn't necessary.

PRESIDENT: Are you referring to an accused or a prospective accused in that case?

MR. BERKOWITZ: In either case, if an accused volunteers to make a statement, it isn't necessary that he be warned of his rights either in the court or prior to that time. If he was warned, it may go to the value of the testimony offered but it is not a necessary prerequisite.

PRESIDENT: The court has asked you for your citations in regard to that particular matter.

MR. BERKOWITZ: If I could have a moment - -

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place at 1140 hours)

(Whereupon the court reconvened at 1145 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, I refer to page 4 of the Outline of Procedure, Paragraph E, in which is stated, "To admit in evidence a confession of the accused, it need not be shown such confession was voluntarily made and the court may exclude it as worthless or admit it and give it such weight as in its opinion it may deserve after considering the facts and circumstances of its execution". Furtherrore, in Section 270, page 109 in the Manual previously referred to, it is stated,

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"An accused has no privilege against his incrimination. He will not be warned that it is not required that he is not required to answer when questions are put to him". If it please the court, I believe this question has already been ruled on at a prior stage of this proceeding. The constitutional rights which would prevent the taking of said testimony, or the introduction of said testimony in the case of courts trying an American citizen would not apply to others and those constitutional protections would not apply in the present case.

PRESIDENT: Mr. Berkowitz, this is not a question of admission of testimony but that of a sworn statement and it governs the matter of the circumstances under which a sworn statement was made.

MR. BERKOWITZ: This is no sworn statement here.

PRESIDENT: The objection of the prosecutor is overruled.

QUESTIONS BY MR. MCKAY (cont'd)

A He made an explanation to me. He said "write down as much as you can". He was checking me as I was writing it and then when I was half way through the work, he said, "that was wonderful, that is enough". I had a stack of paper like this (indicating) in order to write, and he took it away from me and said, "I don't need it any more". He said "You sure are a good artist".

Q Did he ever mention anything about a future trial and that this statement might be used against you in such a trial?

MR. BERKOWITZ: If it please the court, the question is objected to as leading and suggestive.

(Redirect-Hoinisch)

PRESIDENT: Objection sustained.

Q Was that all that the interrogator said to you at this time?

A No. He said I would appear here as a witness. I subsequently asked him when I would be released. He shrugged his shoulders and said "It will happen soon, but you certainly will appear as a witness".

Q Now you refer to the detail to which you were assigned after you had been interrogated in the political department of Flossenburg as being a punishment for you. Will you explain what you mean when you said that?

A I had already worked with this detail. I had been taken from this detail and brought to the political department. When they brought me back, the only thing they said was that from now on they should pay strict attention to me and at the beginning, I didn't know the conditions in Flossenburg, and I considered that a punishment because I had been in a punishment company in Auschwitz, and that wasn't half as bad as this construction detail.

Q When did you learn that there was no punishment company in Flossenburg?

A I found that out in the summer of 1944.

MR. MCKAY: That is all.

PRESIDENT: Recross examination.

RECROSS EXAMINATION

QUESTIONS BY MR. PERKOWITZ:

Q When did you make this statement? Do you remember the date?

A No, I can't remember in more.

(Recross-Mainisch)

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Q Well, was it in 1946?

A Yes, certainly.

Q By 1946 you had learned that there was no punishment company in Flossenburg?

A Yes, I knew it but I wasn't able to write any more. They took that thing away from me.

Q When you were half through?

A Yes.

Q Now in the first paragraph, you tell about your arrival and about the block eldests and about what happened up to the end of 1,44, is that correct?

MR. MCKAY: The question is objected to as improper in form in that it seeks to introduce information from the document which has not been introduced into evidence and which is contained in the form of a document which is in itself the best evidence.

MR. BERKOWITZ: It is my recollection, just about ten minutes ago the counsel questioned him about his arrival at Flossenburg and about the block eldests. The question is perfectly proper.

MR. MCKAY: If it please the court, I asked him if he made the statement, period.

MR. BERKOWITZ: Am I in error when I say that the question of the defense counsel went to the item of the block eldests being brutal?

PRESIDENT: Objection of the defense counsel overruled.

A Yes.

Q Now in your second paragraph, you tell how conditions became worse and you tell about the evacuation and up to the time you

(Recross-Hoinisch)

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were taken into custody by the American authorities, is that correct?

PRESIDENT: The court feels that the witness should have recourse on that particular document before that specific question can be made.

Q Before answering the question, I show you Prosecution Exhibit No. 70.

(Whereupon the reporter repeated the question.)

A Yes, of course the conditions got worse. Thousands of transports arrived from the outside.

Q Will you answer my question?

A Yes.

Q And did you conclude your statement with the remark, "I certify for the correctness...."

A No.

Q Is the last sentence in your writing?

A I had to write it all down with the greatest haste because that is what they made me do.

Q Will you answer my question? Did you write that last sentence in your own handwriting?

A Yes.

Q Does that last sentence say "I certify for the correctness"?

A No.

Q Well, will you read what it says?

A There is merely a definite sentence here for the correctness-- nothing else. I didn't have time to write anything else.

Q Did you add your signature to that?

(Recross-Hoinisch)

A Very right.

Q Is that signature in your own handwriting?

A Yes.

Q And is this statement correct?

A I don't understand the statement.

Q Is this written statement correct?

A Yes, it is right. It is true according to the impression I got when I first got to Flossenburg. It is possible that I described the conditions a little too harshly but I wrote it according to the truth.

Q Well, answer my question. Was this Prosecution Exhibit 70 correct at the time you wrote it?

A The document which you have there is correct as far as I see it, but it is not complete.

Q What would you like to add to it?

A I would like to complete it. I would add the details. The gentleman gave me twenty pieces of paper.

Q Go ahead, tell the details. Tell us now.

MR. MCKAY: That is objected to as improper. He is not now asked to complete that statement. This statement is being used for impeachment and that question goes beyond the scope of impeachment.

MR. BERKOWITZ: If it please the court, I didn't ask for any amplification of it and I extend to him the courtesy of extending his own remarks for his own benefit. If the defense counsel doesn't want him to amplify his remarks, that is satisfactory

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to me, but I thought the court ought to know what all of it is. If this is not all, we ought to have all.

MR. MCKAY: If it please the court, I do not like to criticize the way attorneys conduct themselves in a court. That shouldn't be necessary. But when I am constantly faced with the prosecution's attempt to force these various accused to testify against themselves, I think it is wholly improper and certainly not in accord with the directive that was given to the defense of this case to confine these accused to their own individual participation in the activities so far as they have been related in the court.

MR. BERKOWITZ: If it please the court, the defendant himself has asked to amplify his remarks. That wasn't made at my request.

PRESIDENT: The objection of the defense counsel Mr. McKay is sustained. If necessary, this matter will be brought out by the court at a later period.

MR. BERKOWITZ: If it please the court, I desire to introduce into evidence the statement of the defendant, Georg Hoinisch, marked Prosecution Exhibit 70.

MR. MCKAY: At this time I must resist the introduction of this Prosecution Exhibit 70 for the simple reason that no proper foundation has been laid for its introduction.

MR. BERKOWITZ: If it please the court, the defendant himself has stated that he wrote this in his own handwriting and that he signed it. He has testified concerning the matter therein contained and the defense itself has used the document as the basis for its questions of its own accused. Therefore it is sug-

gested that it is admissible at this time.

PRESIDENT: The court would like to inquire if it is a sworn or unsworn statement.

MR. BERKOWITZ: It is an unsworn statement.

PRESIDENT: Mr. McKay, anything further?

MR. MCKAY: I referred to the statement merely to be sure that the language I used in my questions was corresponding with that of Mr. Berkowitz but my use of the statement does not vouch for its authenticity in any way.

MR. BERKOWITZ: The witness himself has vouched for its authenticity.

PRESIDENT: The objection of the defense counsel, Mr. McKay is overruled. The court will allow prosecution exhibit 70 in evidence and give it such weight as the court sees fit.

MR. BERKOWITZ: If the court will permit me, I will have a sworn translation prepared.

PRESIDENT: Reporter, there is an objection by Major Lanham as to the ruling. The court will adjourn until 1330 hours.

(Whereupon court adjourned at 1200 hours.)

(Recross-Hoinisch)

Camp Dachau, Germany
3 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Lt. Colonel Wilson and Major Oeding, who are absent on business of the accused; and all the accused are present with the exception of Fridensieg, Olschewski and Oswalt, who are sick in the hospital. The interests of the named accused who are absent are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

GEORG HOINISCH, an accused, resumed the stand and testified further through an interpreter as follows:

RE-DIRECT EXAMINATION CONTINUED

PRESIDENT: The objection is overruled. Prosecution Exhibit 70 will be received by the court in evidence and given such weight by the court as the court sees fit.

MR. MCNAY: Mr. Hall has a request to make to the court at this time.

MR. BERKOWITZ: Before this request is made, I have a translation of that exhibit which is not sworn to but I will ask permission of the court to have a sworn translation made, to be introduced as Prosecution Exhibit 70A.

PRESIDENT: When will that be available?

PROSECUTION: We find that this translation we have is sworn to although not dated. If the defense has no objection, I would like to introduce this as Prosecution Exhibit 70A.

MR. MCKAY: The defense does object, because in the preceding part of the document it shows that it was sworn to, which is not true. The interpreter informed me that there was no oath ever administered and sworn to.

PRESIDENT: The court understood, Mr. Berkowitz, that this was an unsworn statement.

MR. BERKOWITZ: Yes, that is true. However, there is a preliminary paragraph which contains the words, "Sworn to before me".

PRESIDENT: When this exhibit is in proper shape, present it to the court at that time.

MR. BERKOWITZ: That will be prepared this afternoon, sir.

PRESIDENT: The court will give you an opportunity at a later period to present that particular exhibit.

PRESIDENT: You are ready to proceed now, Mr. Hall?

MR. HALL: I have completed my direct.

PRESIDENT: All right. Re-cross?

RE-CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Hoinisch, in the statement which was introduced as Prosecution Exhibit 70, you referred to a man named Karl Mathey, M-A-T-H-E-Y. Is he the same person as Karl Mathoi, M-A-T-H-O-I, one of the present accused.

MR. HALL: The question is objected to for the reason that it goes beyond the scope of direct examination.

MR. BERKOWITZ: If it please the court, the exhibit has been introduced as part of the testimony of the accused. It is proper for the court and for the opposing counsel to inquire as to the identity of the people who are named in it, and the spelling of names, and to identify the different persons mentioned. The defense recognized that fact when they themselves called for an explanation of the document.

MR. HAIL: If it please the court, the document was introduced for impeachment purposes as to this witness' testimony. I do not feel the court has admitted it for evidence against any of the other accused.

MR. BERKOWITZ: It is not being introduced against any accused. It is being introduced against this defendant, but the court has a right to see all of it and to know what all of it means.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1105 hours.)

(Whereupon the court was opened at 1115 hours.)

PRESIDENT: Court come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Lt. Colonel Wilson and Major Oeding, who are absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski and Oswalt, who are sick in the hospital. The interests of the named accused who are absent are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be

called as witnesses in this case, they will please leave the courtroom.

GEORG HOINISCH, an accused, resumed the stand and testified further through an interpreter as follows:

RE-CROSS EXAMINATION CONTINUED

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained. The court has admitted Prosecution Exhibit 70 at the request of the assistant prosecutor, Mr. Berkowitz, upon the sole basis of, as indicated by Mr. Berkowitz, that it was an endeavor to impeach the testimony of the present witness. During the course of the cross-examination, you will be limited to matters covered during the course of direct and re-direct examination. This court will not consider any evidence contained in that particular document, Prosecution Exhibit 70, that has not been covered during the course of direct examination and re-direct examination. Proceed.

MR. BERKOWITZ: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Hoinisch, you stated during the course of your testimony that at the time you made this unsworn statement that you requested permission to explain certain things contained therein and also to amplify your statement. By amplify, the court means to enlarge upon the statement that you made. The court will give you that opportunity right at the present. Do you understand fully what the court has stated to you?

A Yes.

Q Proceed.

A I want to enlarge the statement by stating that through-

out the course of the year the conditions became easier and smoother in the camp, and that they again began to become harsher and worse in the year 1945. I came from a camp where the whole thing was naturally different. A lot of noise was made at Flossenburg but no one meant it. The camp eldest, Mathoi, impressed me during the first weeks while I was there actually as a brutal man. During the course of the time, I found out that his verbosity was greater than his brutality. I do have to emphasize that. Not all of them were like that. I got acquainted with two SS men who wore uniforms, that treated us like human beings. But I had to write too fast; someone was waiting; besides, I was interrupted while I was writing it. I should like to emphasize I wrote in the statement that there were good and bad capos. As far as the treatment is concerned, as I related in the written statement, it is true. Also the food. It was worse than any other camps. I don't know anything else to add.

Q Do you wish to state to the court at the present time, anything relative to the testimony of the prosecution witness, Rendel. The court is referring to anything you have not mentioned up to the present time?

A At the present time, I cannot state anything. If the court could grant me permission at a later time to make that explanation, I should like to do so, if I think of anything I could state to the court.

Q Do you wish to state to the court at the present time, anything relative to the matter of the evidence covered in the testimony of the prosecution witness, Sendrowics?

A No, not at the present time. I stated everything that I could state.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY THE LAW MEMBER:

Q You stated there were three SS officers who treated you as human beings. Who were those SS officers?

A Two.

Q Will you name those two officers?

A There was Major Berger and the factory manager, Schubert. At that time, I didn't know Schubert's name. I called another SS man Schubert, - he was some sort of a work master.

Q How did Major Berger treat the people in the camp generally?

A I can't say anything about the treatment. However, whenever we marched close and while I could see him near in the court yard, the way he looked at us and his general conduct showed he considered us human beings.

Q Did you ever hear any adverse comment against Berger while you were in the camp?

A No; never.

Q What was the comment you heard about him?

A I never heard any remarks made. What I have stated here, I know from my own knowledge. You can see how a man conducts himself towards other men by looking at him in his face.

Q Did you ever hear of him mistreating anyone?

A No.

PRESIDENT: Any further questions by members of the court? Colonel Jackson?

QUESTIONS BY COLONEL JACKSON:

Q You stated you worked in the factory with the detail C-1, in the middle hall, is that correct?

A Yes.

Q Who was the capo of that detail?

A The capo was a Czech; the over-capo was a German.

Q On the 15th of July, was he the capo who beat you? That is the 15th of July 1944.

A It was the Czech.

Q Is he among the prisoners?

A No.

PRESIDENT: Any further questions by members of the court. Colonel Skielvig.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q You have stated that Schubert was another SS officer whom you considered decent. From your own personal knowledge, how did he treat prisoners?

A I was always surprised by Schubert when he inspected the halls. He had a friendly look and a friendly nodding of the head for every prisoner. I could not conceive of the idea that this one SS officer should be different from the others. I once asked a capo how that happened. He said that he was not in any way connected with the camp SS and was an entirely different person, that he was wearing his uniform with a certain distaste.

Q What did the other prisoners think about him, if you know?

A The bad ones felt bad about him, but most of them liked to see him around their halls. Unfortunately, he only inspected the halls two to three times a week.

Q From your own personal knowledge, have you ever known him to mistreat a prisoner?

A I never saw that.

PRESIDENT: Any further questions by members of the court?

PRESIDENT: Apparently not. Re-direct?

RE-DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q You just stated that you later learned that Mathoi had more verbosity than brutality, what did you mean by that?

A I want to say I learned to know Mathoi as a brutal man

when I lived with him in Block 20 for two weeks. Crowded conditions existed there and every one man hated the next man. That was the situation there. During the summer months, I heard some good news which I didn't want to believe. At one time when a capo mistreated a prisoner, Mathoi entered the block and beat this man up and said, "A report is on its way against you", and said the capo would be relieved and sent in arrest. He mistreated the prisoner to death while the prisoner was working. The prisoner's name was Dr. Goldberg and the capo was Heinrich Zimmer. It was on the road construction detail.

Q Did you ever hear anything else about Mathoi?

A Later on, I saw him a few times come across the prison courtyard, the camp courtyard, but I never had anything to do with him any more because I was living some place else.

Q What did you mean when you said, "verbosity", what did you mean by that?

A He is nervous; he makes more noise than the whole thing is worth.

Q Do you know what his reputation was among the prisoners later on after you got to know him better?

A The agents of the black market hated him and also those who worked inside the camp and tried to dodge the work. I never heard anything bad being said about him by any decent people.

MR. MCKAY: Nothing further.

PRESIDENT: Mr. Berkowitz?

RE-CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q In 1946, when you wrote about Mathoi, you said he was brutal, is that correct?

MR. MCKAY: The question is objected to as being improper

cross-examination. If it please the court, it has not been shown that the person in the statement referred to is Karl Mathoi.

MR. BERKOWITZ: If it please the court, the witness has just testified on direct examination as to the character and reputation of Karl Mathoi and the question is proper cross-examination. Now, if he did not say that, that may be answered by the witness.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is overruled.

A I wrote that.

MR. BERKOWITZ: No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Does the defense have anything further? Dr. Wacker.

RE-DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Hoinisch, is anything said in your statement about the accused No. 5, Berger?

A No.

Q No. 7, Buddensieg?

A No.

Q No. 9, Degner?

A (No reply.)

Q No. 34, Pawlicsek?

A (No reply.)

Q No. 38, Roupsch?

A (No reply.)

Q No. 43, Schwarz?

A No.

Q No. 47, Sommerfeld?

A No. I didn't list that prisoner.

(Hoinisch-re-cross and re-direct)

PRESIDENT: There were no answers to some of those questions. The court desires these questions be cleared up.

MR. BERKOWITZ: I want to make an objection to the questions propounded in German. I tried to object when they were being asked. These are objected to. The best evidence is the statement itself; the court can see what it contains.

PRESIDENT: The objection by the assistant prosecutor, Mr. Berkowitz, is overruled.

Q Again, I have to ask the witness: Is any one of the men that have just been mentioned by number, are any one of those named in your written statement?

A No.

PRESIDENT: Any further questions on the part of the defense? Mr. McKay?

MR. MCKAY: I have a question on behalf of the accused, Lipinski.

QUESTIONS BY MR. MCKAY:

Q Mr. Hoinisch, did you ever observe Lipinski in his block?

A No; impersonally never. I was several times in his block, but he wasn't present.

Q When was the last time you saw Lipinski in camp?

A April 16th. He wore the same uniform that he is wearing to-day, the same suit.

MR. MCKAY: That is all.

PRESIDENT: Any further questions on the part of the defense?

PRESIDENT: OK. Re-cross?

RE-CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q What kind of hat did Lipinski wear?

A He wore a black sailor's hat, some sort of sailor's hat with a visor.

Q What kind of visor?

A The patent leather visor.

Q Was that a shiny visor?

A Yes.

Q Now, in the statement which you prepared, the only one of the defendants you selected to name in there is Mathoi, is that correct?

A No.

Q Which other defendants did you name?

MR. MCKAY: I object to this on the basis that the statement itself is the best evidence.

PRESIDENT: The objection of Mr. McKay, is sustained.

MR. BERKOWITZ: No further questions.

RE-DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Did you observe whether Lipinski always wore a cap, or not?

A In the camp, I always saw him with a hat.

MR. MCKAY: Nothing further.

PRESIDENT: Any further questions on the part of members of the court? Apparently not. The court understands that the defense is finished with this particular witness.

MR. MCKAY: We are finished.

PRESIDENT: At this time, Hoinisch, the court would like to find out whether you would like to make any further statement to the court

ACCUSED HOINISCH: I have to make an explanation in regard to the prosecution and defense witnesses.

MR. MCKAY: If it please the court, Dr. *Murray*, is here now and is in a hurry, and if the court would like to proceed, I will be prepared to go ahead.

PRESIDENT: The court will give this witness an opportunity to proceed, if he is not too long.

ACCUSED HEINISCH: Both of these witnesses, joined themselves together in building up lies to go against me. There were up to 800 people in the block normally. The Czechs were the so-called secret block. They always have been in any kind of mistreatment or violent acts, and there was no Czech here to testify against me. Czechs were witness here but none of them spoke against me. For this reason, I did not feel it to be necessary to court any witnesses for the defense, for the reason because I did not know any and because I did not feel guilty of anything. The three witnesses, Tormer, Huger, and Siecenko, I never had any connections with these people and I didn't request them as witnesses. They saw my pictures here and were surprised to find out I was on trial. They themselves volunteered to testify in my behalf. That is all I have to say at the present time.

PRESIDENT: Questions by members of the court? Apparently not. Does the defense have anything?

DR. MCKAY: Nothing.

PRESIDENT: The prosecution?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Whereupon the Accused HEINISCH resumed his place in the dock.)

DR. HALL: For reasons which necessarily are not within the control of the defense, we respectively ask permission to interrupt the normal course of the proceedings to present a witness on behalf of Dr. Schmitz. I cannot over-emphasize

the fact that I do not desire to do this at this time, for the simple reason that various other witnesses for Dr. Schmitz have not been introduced yet and the whole picture has not been integrated yet. This particular witness is the chief doctor and surgeon in a large hospital in Freiburg and he has handed to me a list of some 20 major operations, classified by him as major operations, which he would be performing to-day, if he were in Freiburg, and operations which he himself will be performing on these particular patients. Because of the arrangements through Wiesbaden for getting witnesses, it is impossible for us to schedule a witness' arrival, as we desire. This particular witness comes from the French zone. In view of his presence being needed back in Freiburg, and in view of the difficulties in getting a witness here, we respectively ask permission to present this witness at this time.

PRESIDENT: Any remarks on the part of the Assistant Counsel?

MR. BERKOWITZ: Despite the fact that we have had no advance notice of the fact that medical testimony will be introduced, and that we have had no opportunity to consult with any medical expert upon the short notice that we have received, I have asked Dr. Kempner to come here and sit beside me and advise me on any medical matters which may arise. Nevertheless, considering the circumstances, the prosecution will not oppose the introduction of this testimoney at this time.

PRESIDENT: Under the circumstances, as stated, the court will grant the request of Mr. Hall.

MR. HALL: I should like to mention for the record, that I did not know the witness was here this morning myself.

PRESIDENT: At the same time, the court will permit the assistant prosecutor to have the assistance of Dr. Curry at the prosecution table, during the course of the testimony of this particular indicated witness.

MR. HALL: Dr. Rehn, please.

DR. EDUARD REHN, called as a witness by the defense, being first duly sworn testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name?

A Eduard Rehn.

Q How do you spell your last name?

A R-E-H-N.

Q What is yourage?

A 66 years old.

Q What is your present occupation?

A Surgeon, professor Surgery, Director of the University Clinic for Surgery at the University of Freiburg.

Q How long have you been at this present occupation?

A From 1907 until to-day in the profession. As chief, from 1924 until to-day.

Q Do I understand that you have been a practising surgeon since 1907?

A Yes; at first, assistant, and later on, chief.

Q What medical societies in Germany are you a member of?

A The German Association for Surgery and the Association of Surgeons of the Middle Rhine.

Q Are you a member of a medical society other than in Germany?

A Yes; a member of the Association for Plastic Surgery in New York, America.

Q Do you number among your professional acquaintances in that society, any American doctors?

A My best friend is Dean Lewis, from John Hopkins Hospital in Baltimore.

Q Have you written any treatises in connection with surgery?

A Yes; I wrote quite a bit about surgery.

Q Would you care to estimate the number of books you have written on that subject?

A 160. And at the present time, the new edition of the works on surgery by my former boss, Lexer, an international man, is in preparation.

Q What medical school are you a graduate of?

A From Munich.

Q Do you know a man by the name of Heinrich Schmitz?

A Yes, I saw him.

Q Identify him, if you can.

A I recognized him as a former volunteer.

Q Will you please recognize him at this time.

A There, 40 (indicating).

MR. HALL: Let the record show the witness has accurately identified the accused SCHMITZ.

Q You mentioned you knew him as a volunteer. When was that time.

A 1926 to 1927.

Q And where?

A In Dusseldorf.

Q What do you mean by a volunteer?

A That is the preparation to be an assistant. Those are the preparatory steps to be an assistant.

Q He was a volunteer in some institution at Dusseldorf, of what?

A In the clinic. He was a volunteer in the clinic for surgery.

Q Would you briefly describe the training that is necessary preparatory to becoming a surgeon in Germany?

A For one thing, the examinations, two examinations. The doctor's examination and the physicum, in order to be an interne, and work practically for one year in a clinic, and then the decision is being made whether a man wants to go to an academy or make up a practice.

Q What prior to the examination, what in brief, is the training that is required in school before you can even qualify to take the examination?

A First, one to two years of theory, pathological anatomy or chemistry or chemical physiology. That is quite a bit.

PRESIDENT: The court will be recessed for thirty minutes.

(Whereupon the court recessed at 1500 hours.)

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(Thereupon the court reconvened at 1550 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, and Oswalt who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: You will warn the witness that he is still under oath.

Dr. Eduard Rehm, called as a witness for the defense resumed the stand and being reminded that he was still under oath testified through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL (Continued):

Q Dr. Rehm, at the commencement of the recess we were talking generally about the preliminary education to becoming a practicing surgeon. Now I ask you to please state, in a general way, this preliminary education required to become a practicing surgeon. Do not necessarily detail the subjects but the number of years involved--grouping it in years insofar as possible?

A It is eleven and a half to 12 years in a compressed period of time, to put it concisely.

Q Now could you make that or break that down into another grouping?

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A Five years up to the State's exam. One half year for the exam. One year for a practice year in any clinic, and then the actual surgical education which takes five years and one of those years can be internal medicine.

Q You mentioned a half year for examination. What do you mean by that?

A The various stages, one after another, are examined and it takes about one semester to do that because actual examinations are carried out at the sick bed and then the theoretical.

Q Now, what hospital was it that Dr. Schmitz was a volunteer in?

A At first he was with Professor Lommel in the clinic for internal medicine in general and then he was in Professor Wrasder's office. Wrasder is a surgeon in Brunswick. Then he was a volunteer with me.

Q And where was it that he was a volunteer with you?

A In Duesseldorf, 20 years ago.

Q What kind of hospital was this in which he was a volunteer in 1926 and 1927?

A That was the surgical clinic of the medical academy in Duesseldorf.

Q Will you please describe the rating of that clinic in comparison to other clinics in Germany?

A It is to be classified among the universities, but not for the preparatory clinic--faculties only for the clinics.

Q Now will you describe a little more as to this term, "volunteer"?

A The volunteers are being trained. They learn almost completely. They don't have much to do in the actual service. They aren't allowed to operate by themselves. They are educated with courses and by assisting in the polyclinic and in minor surgery.

(Rehm-direct)

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Q What remuneration does a volunteer receive?

A Nothing.

Q Now Dr. Mehm, testimony has been introduced before this court to the following effect:

Veins, arteries, nerves and parts of muscle, in connection with an amputation, were all knotted together in a huge bundle 5 to 6 centimeters in diameter.

A That is nonsense.

Q What do you mean by that?

A You just can't do it.

Q Now there has been testimony before this court that there is only one artery the whole length of the leg above the knee. What do you have to say about that?

A In any book on anatomy you can read that we have an artery profunda femorus and an artery of the thigh which vary in strength. The profunda can be stronger than the femorus but as a rule the femorus artery is the strongest one.

The femorus carries in the weight of the blood for the lower part of the legs. If there is a shot in the leg, the thigh of the leg, the artery femorus can be tied and the leg will still not die because the profunda artory is still strong enough.

Q Now I will call you attention to the subject of pleurisy. Dr. Schmitz has been charged with performing an operation on a simple pleurisy.

PROSECUTION: If it please the court, that statement is objected to. We do not want counsel to testify if the witness who is called is called as an expert. Counsel might give him a hypothetical question so that he be given an opportunity to answer.

MR. HALL: I withdraw the question.

(Rehm-direct)

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PRESIDENT: All right Mr. Hall. Continue Mr. Hall.

QUESTIONS BY MR. HALL:

Q If you were charged with performing an operation on a simple pleurisy would you know what you were charged with?

A The term, "simple pleurisy", as such is too broad a term. There are so many kinds of pleurisy that you can't count them all.

Q Just give us an estimate of how many different kinds of pleurisy there are.

A There is a pleuritasica, a wet pleurisy, a moist pleurisy, and there is a pleurisy which is half way between liquid and dry, a pleuritis carcinomatosa.

Q That is enough Dr.

A And there is a pleurisy tuberculosae. There are more. I can give you more.

Q Then, am I to understand that you don't know what simple pleurisy is?

A I would like you to tell me more clearly what you mean by simple pleurisy.

Q Well Dr. the only thing in this hypothetical question is the two words, "Simple pleurisy".

A And what do you mean by the operation, either a puncture or an operation or a rib operation?

Q I refer to the operation after the puncture.

A A puncture and then an operation?

Q Yes.

A Then a real operation. Yes, sir.

Did I answer?

Q I think you did. I am not sure. I am going to check with you.

(Rehm-direct)

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Is there some doubt in your mind as to what is meant by the two words "simple pleurisy"?

MR. BERKOWITZ: I object tothat question on the ground that it is leading.

MR. HALL: If the court please, there has already been shown a confusion on the subject and I am entitled to a leading question.

MR. BERKOWITZ: If it please the court, this witness has been introduced as an expert witness to clear up any confusion that might be in the mind of the court and not to confuse the court. As an expert he should be presented with the proper question or hypothetical question concerning hypothetical cases, and be permitted to answer them. But the words that counsel wishes to elicit should not be put into the mouth of the witness by leading questions.

MR. HALL: I will withdraw the question to save time.

QUESTIONS BY MR. HALL:

Q Doctor, in my hypothetical question I used the words simple pleurisy. What do you understand to be meant by the words, "simple pleurisy"?

A By that I would understand an ordinary pleurisy which is not infected.

Q Now, if the pleura's fluid were withdrawn and the fluid withdrawn were clear, what would that indicate?

A The word clear is a rather broad term here. You would have to test the liquid first.

Q Test the liquid? For what purpose?

A To look for bacteria.

Q If you find bacteria, what happens then?

A Then you have a right to carry on an operation.

(Rehm-direct)

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Q How would you test the fluid to determine whether or not bacteria is present?

A First of all you have to rotate the liquid and then test it under the microscope. Then you color the rest of the liquid and look at it through the microscope.

The second method is a microbe culture with aga-aga and bouillon.

Q Now I shall ask you another hypothetical question.

If you were standing in line or rather next to a line of prisoners and if you were standing next to the doctor who was puncturing the pleura of a prisoner, and if the fluid was withdrawn from the pleura of that prisoner, and if you have the fluid in your hands where you can see it with your eyes, and you look at that fluid with your eyes and then hand the fluid to somebody else and never see that fluid again, could you, Mr. Rehm, from that examination of that fluid, determine whether or not an operation on the pleura was necessary or not necessary?

A No.

Q What is Sepso?

A Sepso is an iodine replacement.

Q What is it used for?

A For disinfection. To disinfect the skin.

Q Doctor, if you took a bottle of Sepso, a quart of it, and poured it on a man's stomach what would be the effect on the skin with reference to blistering and burning the skin.

A It would be the same effect as if I had taken absorbent cotton and rubbed the liquid on to the skin of the stomach. There isn't any scalding or any burn. Not from the real iodine replacement, Sepso.

(Rehm-direct)

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Q Now you speak of Sepso as being an iodine replacement, please describe the availability of iodine during the war in general.

A Very little. No replacements.

MR. HALL: Will you please mark these two documents as defense exhibits for identification?

(The documents referred to were marked Defense EXHIBIT Nos. 16 and 17 for identification.)

Q Dr., describe where Sepso has been used in Germany.

A In all the clinics where no more iodine was available.

Q Now I show to you Defense Exhibit No. 16 for identification and ask if you have ever seen that before?

A That is a writing of Professor Wraeder.

Q Tell us a little bit about who Professor Wraeder is.

MR. DENKOWITZ: Objected to as irrelevant and incompetent.

MR. HALL: If the court please, there has already been evidence concerning Professor Wraeder, before the court, as one of the teachers, instructors and professors of Dr. Schmitz, and at this time I desire this man to tell the court briefly, his knowledge concerning Professor Wraeder as a former professor of Dr. Schmitz.

PRESIDENT: The objection is overruled.

A Professor Wraeder was the first chief doctor that I was assistant to. I stayed with him for many years and went with him from Koenigsburg to Jena and got a call to Brunswick from Jena and there he stayed. He was an excellent surgeon.

Q Now I show to you Defense Exhibit No. 17 for identification and ask if you have ever seen that before?

A Yes, sir. That is a statement of Professor Lommel, the doctor in the clinic for internal medicine in the Polyclinic in Jena. He doesn't work there any more. I don't know whether he is alive or not.

Q Now whose signature appears at the bottom of that exhibit?

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A Professor Lommel's.

Q And whose signature appears at the bottom of Defense exhibit No. 18 for identification?

A Professor Traeder's.

Q Where is Professor Traeder today?

A He is dead.

Q Dr. Rehm, tell us briefly who Dr. Lommel is or was.

A Lommel was a good professor of German medicine in Jena. While I was there in Jena as an assistant I knew him very well, and he was a very exceptional surgeon.

MR. HALL: That is all sir.

PRESIDENT: Cross-examination Mr. Berkowitz.

MR. BERKOWITZ: Will the court allow me about five minutes to consult with Dr. Geezy?

PRESIDENT: The court will grant that request.

Mr. Berkowitz, notify the court in the chambers when you are ready to proceed.

The court will take a short recess.

(Whereupon the court recessed at 1610 hours.)

(Whereupon the court reconvened at 1620 hours.)

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Major Oeding who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, and Oswalt who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

(Rehm-direct)

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If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: You will warn the witness that he is still under oath.

DR. EDUARD REHM, called as a witness for the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

MR. HALL: If the court please, I neglected to ask the witness two questions, and I request permission to ask those questions of the witness at this time.

PRESIDENT: Go ahead Mr. Hall.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL (Continued):

Q Doctor, if muscles are transplanted, and if no complications set in, what is the indication with reference to the sufficiency of asepsis?

A Then the asepsis is good.

Q And what do you understand the word asepsis to mean?

A The external sign is that when the wound heels no pus will form. Asepsis is being caused, firstly, by the surgeon, the nurses and the assistants if they are not disinfected properly. That they are dressed septically, that they disenfect their hands and that they wear sterile rubber gloves for protection. Secondly, everything which has a connection with the operation such as instruments etc., at any rate anything that is connected with the operation is to be sterilized.

Q Now, what is the possibility of infection in connection with the transplanting of muscles compared to other types of surgery?

A If a free transplantation of tissue is being done, for instance bones, sinew or fat, and if you transplant that to the

(Rehm-direct)

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spot where it should heal, then this transplantation, as you call it, at first is without food, and that is the time when the infection sets in.

Q Well, what is the probability of infection in such surgery as compared with other types of surgery?

A The probability of infection is much larger in plastic surgery.

Q Well now, you have discussed the transplanting of muscles etc. In what way is that related to plastic surgery.

A I should not like to have you talk about the transplantation of muscles because in the first place the first thing that has to be said about that is that the transplantation will heal improperly and in this connection you cannot talk about any free transplantation of muscles. May I add something?

MR. HALL: Yes, sir.

A It is only possible to transplant primitive organs.

Q All right, now, do you know a lady by the name of Knabe?

A Yes.

Q Where?

A In my clinic in Zanguschan.

Q How long ago?

A That is to say I have two clinics, one in the Auterbade and one in the Zanguschan.

Q How long ago was this conversation?

A 4 or 5 days ago.

Q Who was present at the time?

A Mrs. Knabe and I.

Q Who was the subject matter of that conversation?

A Mrs. Knabe is a patient in the clinic whose leg had to be amputated. During my vacation my chief doctor operated on here

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Q Now, you have mentioned that you had a conversation with her. About whom were you talking?

A I visit all the sick people in my hospital and there are about 400 sick people in my hospital, and I talk to all of them.

Q I don't think that you quite understood the question.

Who were you talking about with this lady, Knabe?

A Mrs. Knabe asked me where the address of Doctor Schmitz was.

Q What comment did she have to make in connection with Doctor Schmitz?

MR. BERKOWITZ: That is objected to as incompetent and irrelevant unless this concerns the actions of Doctor Schmitz in the concentration camp.

MR. HALL: If it please the court, we have to hear what the witness says before we determine whether or not it is irrelevant and immaterial. If it is felt after testimony that it is irrelevant and immaterial. In that manner, then, of course, the court can strike it from the record.

MR. BERKOWITZ: If it please the court it is not necessary to introduce this conversation unless, at the present time, the proper basis for it should be laid and the proper preliminary questions be asked--if the question is not to be objectionable.

MR. HALL: If the court please, I have laid the time, the place and the persons present. We must hear the conversation first before we can judge whether or not it is immaterial.

MR. BERKOWITZ: I don't want to tell counsel how to frame his questions, but preliminary questions might be asked as to what was talked about before the actual conversation is related.

MR. HALL: That is what I am trying to find out, what was talked about.

(Rehm-direct)

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PRESIDENT: The objection of Mr. Berkowitz is overruled. At a later period the court will entertain a motion to strike if that motion is placed before the court.

WITNESS: She asked, "Do you know where Doctor Schmitz is staying at the present time?" I didn't know why she was asking because I didn't know where Doctor Schmitz was, whether he was dead or alive because I didn't hear from him for many years. I asked the lady why she was asking and she said to me, "I am Jewish and my son is half Jewish and Schmitz acted decently towards my son."

QUESTIONS BY MR. HALL:

Q And did she say anything in connection with an operation?

MR. BERKOWITZ: Objected to as leading.

PRESIDENT: Objection is sustained.

QUESTIONS BY MR. HALL:

Q Is that the extent of the conversation then, Doctor.

A Yes. I said that I didn't know where he was, and now I have seen him.

MR. BERKOWITZ: If the court please, I move that that conversation be stricken from the record as being immaterial and irrelevant.

MR. HALL: If the court please, there has been considerable testimony brought to bear by certain witnesses of the prosecution concerning the temperament of Doctor Schmitz and I don't propose to flood this record with individuals who will come in and say that Doctor Schmitz was a good man. But in view of the charges leveled against him I feel it is perfectly proper to show this rather casual incident of his treatment of a Jewish individual.

MR. BERKOWITZ: If it please the court, we are concerned here with Doctor Schmitz's actions in Flossenburg. Anything outside of that would be incompetent and irrelevant.

(Rehm-direct)

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MR. HALL: Nothing further to answer.

PRESIDENT: The motion to strike is denied.

Cross-examination, Mr. Berkowitz.

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now Doctor, do you consider an amputation a major operation?

A It all depends on who carries it out.

Q What do you mean by that?

A If I do it, it is not a major operation. If a beginner does it it is a major operation.

Q How long does it take you to perform an amputation, including the preparations and the actual cutting and cleaning up?

PRESIDENT: Mr. Prosecutor, the court feels that you should clarify that question. There are all kinds of amputations.

MR. BERKOWITZ: If it please the court, that is something for the witness to answer. The witness, I believe, would know the differences in amputations better than I and would be able to clarify the situation much more readily than I can.

PRESIDENT: The court feels that it is a matter of common sense about the matter of an operation.

MR. BERKOWITZ: I will withdraw the question.

Q Doctor, how long does it take you to perform an amputation of an arm or leg, including the preparation of the patient and the post-operative action necessary on the table.

A May I say something first there?

Q Surely.

A You cannot ask how long an operation takes because, if you hurry an operation up, the quality of this operation suffers. It is very difficult to say.

(Rehm-cross)

The great surgeon under Napoleon, Lery, took care of an amputation of the thigh within 5 minutes. I should not like to have anyone amputate me within 5 minutes.

Q Then hurried operations are not safe operations. Is that your answer Doctor?

A It is not always the best.

Q How long does it take you, ordinarily, to perform an amputation of an arm or a leg, including the preparation of the patient and the dressing of the patient after the cutting?

A Preparations to wash, to sterilize - 15 minutes. The operation itself--15 minutes, approximately.

Q Are you through?

A Yes.

Q After the cutting of the bone, what do you do with the tissue and the blood vessels and the muscles?

A The blood vessels and the nerves are being taken out of the muscle. The blood vessels are being carefully tied with cat gut. The nerves are being pulled out with an artery pliers and cut off.

Q How long---

A The muscles are being sewed over the bone and then the skin.

Q How long does it take to do that part of the operation?

A If I operate fast--15 to 20 minutes.

Q How long does it take to put on the dressing after this operation is completed?

A The bandage?

Q Yes, sir.

A Five or ten minutes.

(Rehm-cross)

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Q Then, if I understand you correctly Doctor, a skilled surgeon requires almost an hour to perform an amputation. Is that correct?

A Yes, sir, that would be right.

Q After the amputation, is it the proper practice to tie up each blood vessel individually and seperately?

A Yes, sir.

Q Is it proper practice to bind the muscles and nerves together? Is it proper to knot them all together at the same time without stopping the blood and doing it in an unsleanly way?

A You don't do that.

Q If it is done, is that proper practice?

A That is wrong.

Q What is wrong?

A If you bind everything together.

Q That is improper?

A That is wrong.

Q Would that result in blood poisoning?

A Blood poisoning by binding? Altogether, no.

Q Would that result in improper healing of the foot?

A If a large muscle is being bound off, is being tied, and it dies, then an infection can occur.

Q Is that liable to occur when the blood vessels and the nerves and muscles are all tied in one bundle?

A Yes, of course, if you can do that.

Q Is that proper?

A I never saw that.

Q If anyone did that, would that be proper surgical procedure?

A No, no.

(Rehm-cross)

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Q Isn't simple pleurisy a layman's term for non-infectious pleurisy Doctor?

A The layman can say a lot of things. I, personally, don't go by the expressions of a layman.

Q Is there such a thing as infectious pleurisy and non-infectious pleurisy?

A The infectious pleurisy is called empiema.

Q As to non-infectious pleurisy, are there two kinds, dry and wet?

A Dry and wet and cancerous, or when cancer is there or tuberculosis.

Q On what sort of pleurisy cases do you operate?

A I only operate the empiema.

Q And what do you mean by empiema?

A Infection, acute infection, non-tuberculosis.

Q Non-cancerous?

A No.

Q Not dry?

A No.

Q Not non-infectious wet cases?

A Only if it is a very large pleuris and it presses against the heart and the lung. Then it is punctured but not operated.

Q Then you only operate in the cases of empiema, meaning infectious cases with pus present?

A Definitely, yes.

Q What preliminary steps do you take before you operate for empiema?

A I always puncture it first.

(Kehm-cross)

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Q Anything else?

A And then test the bacteria, logically.

Q Do you also take an X-ray?

A Yes. Then it is being tested as to whether a man can stand or take this operation?

Q Now is there any other proper surgical procedure than the one just outlined?

A That is that which should be required, what the surgeon should do. It is very much because it is a very complicated procedure to test whether someone could take the operation. That is testing the liver, blood tests for acids and the examination of the whole circulation and that is a lot.

Q Would you consider an operation, done without such preliminary steps, proper surgical procedure?

A You have to distinguish there. If I take care of this operation in a good clinic I have to require these steps. If I do that somewhere in the field during the war I can't do it.

Q Do you consider operations of non-infectious cases proper surgical procedure?

A Operated radically?

Q Yes.

A That is wrong. You should not operate.

Q Doctor, what is the ordinary mortality rate in cases of amputations?

A That is hard to say. It depends on why you amputate.

Q Would you amputate for ulcers?

A Yes, yes, extended ulcers with cancer.

Q Would you amputate for ulcers without cancer?

A No. Only if the whole leg is one ulcer that you can't heal. Other than that, not. If I amputate because of extended ulcer or a

(Rehm-cross)

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cancer or a soldier whose lower leg has been shattered, then no one will die. But if I amputate a decomposed diabetic, that is a different story. Then someone can die. But not from the amputation, from diabetic.

Q Just a moment sir. How many amputations can a surgeon perform in a day providing he takes the proper precautions to sterilize and providing the proper sanitary conditions are present?

A How many operating rooms does he have? How many assistants does he have? How many nurses does he have? How many instruments does he have? If I only have to change my gloves I can take care of a hundred.

Q Now suppose you have to take care of changing your gloves, of preparing the patient and you have no assistants, how many could you do a day?

MR. HALL: I object to that question. I presume it is hypothetical and I know of no evidence in the record that would uphold such a hypothetical question.

MR. BERKOWITZ: If it please the court, the witness has testified that in order to perform a proper amputation it requires at least an hour. Testimony shows that the defendant, number 40, performed 18 in one day. I want to find out from this expert whether or not that is proper surgical procedure.

MR. HALL: If it please the court, the prosecution's question assumes that Doctor Schmitz, all by his lonesome, locked in a room, did everything by himself. The evidence is not that. As a matter of fact prosecution's own witnesses were helping him. I might question the competency of some of his help, however.

MR. BERKOWITZ: If it please the court, the testimony shows that the other doctors were not permitted to assist. Doctor Schmitz wanted to do everything himself. The evidence also shows that he

(Rehm-cross)

performed 18 amputations in one day. Now I am asking this hypothetical question, and if counsel feels that it should be amplified, that is the proper province of cross-examination but it is not the proper subject of an objection.

PRESIDENT: The court would like to ask Mr. Berkowitz whether this is an entirely hypothetical question or whether it is based upon any facts or assumption of facts.

MR. BERKOWITZ: No, sir, it is based on the evidence.

MR. HALL: I should also like to add this. This is coming out of order in the line of testimony and I beg the court to bear in mind that the evidence is purely that of prosecution.

MR. BERKOWITZ: My reference to the evidence is the evidence manifested by the record itself.

MR. HALL: That is right.

PRESIDENT: The court understands, Mr. Berkowitz, that your question is based entirely upon a hypothetical situation.

MR. BERKOWITZ: Yes, sir. I have explained to the court what the purpose of my question is.

MR. HALL: My position, of course, sir, is that the hypothetical question must be based on facts which are in evidence.

MR. BERKOWITZ: Nothing further sir.

PRESIDENT: The objection of the defense counsel, Mr. Hall, is overruled.

WITNESS: There are 24 hours in a day. If you operate for 18 hours there a 6 hours left to eat your dinner.

QUESTIONS BY MR. BERKOWITZ:

Q Doctor, you refer to Sepso. Does Sepso come in varying strengths?

A I don't know. We used Sepso as a substitute for iodine. It doesn't harm anything. I am happy that I have iodine again in the

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clinic. We receive the sepso from the pharmacy of the clinic and therefore, I don't know how the sepso is formed, made up.

What we used is harmless.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct.

RE-DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Doctor, you were just asked a question. Something as follows:

Isn't simple pleurisy a layman's term?

Do you remember that question?

A That is not precise at all.

Q Would you call it a professional doctor's term?

A No.

Q Going back to this matter of amputations, please explain how one would tie nerves, arteries, veins and muscles in a bundle 5 to 6 centimeters in diameter?

MR. BERKOWITZ: Objected to as a repetition.

PRESIDENT: Objection overruled.

WITNESS: It is impossible for the following reason:

The bones are between the muscles. If there are two bones like here in your forearm, the blood vessels are between your bones, and if you want to tie everything up it is very--you can't depend on that--it is very bad. This is one question I have been asked for the first time in my life.

QUESTIONS BY MR. HALL:

Q You mentioned on cross-examination that you did not operate in cases of non-infectious pleurisy.

A Yes, sir.

(Rahn-re-direct)

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Q So that there be no doubt, how do you tell whether or not the pleurisy is infectious or non-infectious?

A I did not understand it. Please, the question again.

MR. HALL: I will withdraw the question and change it.

Q How do you tell whether a pleurisy is infectious or non-infectious?

MR. BERKOWITZ: Objected to as repetitious.

PRESIDENT: Objection overruled.

WITNESS: If there is thick pus, I can see it, otherwise I have to test it for bacteria.

PRESIDENT: Will the reporter repeat the answer?

(Whereupon the reporter did as directed.)

MR. HALL: That is all, sir.

PRESIDENT: Recross.

MR. BERKOWITZ: No further questions, sir.

PRESIDENT: Any questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Doctor, you mentioned that Doctor Schmitz had performed certain voluntary service some 20 years ago. Was that in the form of an internship?

A No, after the internship.

Q Doctor, with reference to pleurisy, did I understand you to state that the only time you would operate was in the case of an infectious wet pleurisy?

A Yes, sir.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY THE LAW MEMBER:

Q Doctor you say that it would take an hour to perform an

(Rehm-court)

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amputation of an arm or a leg, including the preparation, the operation and the post-operative work, including the bandaging. I would like to know whether or not you make the preparations yourself and do the post-operative work yourself?

A Not the preparations. The bandaging, yes.

Q Would that be done by your assistants?

A The preparations, yes.

Q That being true, how much time would you, yourself, the surgeon, ordinarily spend in connection with this operation?

A For 10 minutes I wash my hands with soap and water, for 5 minutes with alcohol and then I put on my gloves and operate.

Q How long does all that take?

A The whole thing, for me, 45 minutes.

Q In other words the total amount of time you, yourself, would spend on the operation would be 45 minutes. Is that right?

A Yes, sir.

Q Now one other question brought out, I believe, by the defense counsel, was that some woman came to see you about a week ago and talked to you at your office. Do you recall that?

A The women is sick in the clinic and she is still very ill.

Q Did she state whether or not Doctor Schmitz performed an operation on she or her son?

A No.

Q She didn't make any mention of that?

A No.

Q Did she state whether or not Doctor Schmitz treated she or her son?

A No.

(Rehm-court)

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10/3/46

Q What did she say about Doctor Schmitz?

A That he had helped her son.

Q Did she say in what manner he had helped her son?

A I don't know. There was no reason for me to ask her.

QUESTIONS BY THE PRESIDENT:

Q Doctor, your estimation that it would take generally about an hour to perform an amputation of an arm or leg would be based upon such factors as the experience and skill of the surgeon, the condition of the patient, and the facilities available in the hospital, would it not?

A An very good personnel and good possibilities for sterilization have to be there.

Q That time element would certainly vary according to those various factors would it not Doctor?

A Yes.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY THE LAW MEMBER:

Q Doctor, if you had a tremendously large number of patients to operate on and you were the only doctor, would you be able to accelerate the number of operations?

A If the quality doesn't suffer, yes.

Q Would you speed it up if there was no other doctor to attend these patients and they, more or less, had to be attended to.

A No other doctor there to assist?

Q No other doctor to actually perform the operations.

A Then I would take care of it myself. We operated, during the war, day and night.

Q Would you take less time in an emergency like that?

A In an emergency everything is allowed, in the war. But (Rehm-court)

if I operate in a good clinic I am not allowed to take care of so many operations because the nerves of the operator or surgeon give in.

PRESIDENT: Any further questions by any member of the court?

Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Doctor, what is the effect of the physical conditions of a patient with reference to the mortality rate?

A It is a very big influence.

Q Please explain that.

A I have made a research and I took care of hundreds of works with my assistants in my school to examine the condition, just that condition because you cannot, by looking at the patient, determine his amount of strength. You might look well, but when I operated on you under certain circumstances you might not be able to pull through.

Q What is the effect of malnutrition on a patient with reference to the mortality rate.

A Malnutrition is a large influence on the patient being able to pull through the operation or to be able to have a large operation on him taken care of.

MR. HALL: That is all, sir.

RECROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Doctor, is it proper to operate on a patient who is suffering from malnutrition, except in cases of acute emergency?

A Only in emergency cases.

(Rahm-recross)

Q Doctor, would you consider a leg with a simple ulcer on it sufficient emergency to require an amputation?

A If there is a lot of pus in the ulcer and the ulcer infects the organism, the other organs, then yes.

Q In cases where it has not infected the other organisms would you consider it an emergency operation?

A No.

Q Is it proper for the surgeon to wash his hands between each operation?

A If you put on sleeves you do not have to take too much time on the second sterilization of your hands.

Q Well sir there will be some sterlization on your hands between operations,will there not?

A Yes. I am very careful there and very exact. You have to be that.

Q Now doctor, is it proper to sterilize the instruments that are used in an operation before an operation begins?

A Of course.

Q Did you know Doctor Schmitz while he was at Flossenburg?

A Know him? How do you mean? Whether I saw him or not?

MR. BERKOWITZ: I withdraw the question.

Q Are you familiar with the activities of Doctor Schmitz as camp physician at Flossenburg?

A No.

MR. BERKOWITZ: Thank you.

WITNESS: I heard about that today.

PRESIDENT: Any questions by any member of the court?

Apparently not.

Does the defense have anything further?

(Rehm-recross)

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10/3/46

MR. HALL: Nothing further sir.

PRESIDENT: The court understands that the defense is finished with this witness.

That will be all Doctor. Thank you.

MR. HALL: In view of the urgency of the need of his return, may this witness be excused, at this time, to return to his hospital?

PRESIDENT: The court will grant that request. The Doctor may return to his home city.

(Whereupon the witness was excused and withdrew.)

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon at 1730 hours the court adjourned to reconvene at 0900 hours, 4 October, 1946.)

C.A/Gl 13 Legal Form No. 8

Court

MILITARY GOVERNMENT COURT.

OK, any OK

First Duplicate Copy

Case Record.

FLOSSENBURG

Case No. .....

Pages 4585 - 4644 Incl.

Prosecutor. .....

*~~Summary~~

*~~Intermediate Military Court~~.

*General

Defence Counsel. .....

Interpreter. .....

Place DACHAU, GERMANY

Reporter .....

Date 4 October 1946
0900 - 1700 Hours

~~Members of Court~~
WITNESSES:

EDUARD KITZMASCHOWSKI
AUGUST GINSCHEL

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term .....
  - Beginning ....., 194....
- Fine
  - Amount .....
  - To be paid before ....., 194....
  - or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

Review

Action of Reviewing Authority .....

.....

.....
(Signature of reviewing authority.)

* Strike out words not applicable

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH RUPPERT, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

4 October 1946 0900 - 1700 Hours Pages 4585 - 4644 Incl.

TESTIMONY

WITNESS:	Direct	Cross	Redirect	Recross	Court
EDUARD KITZMASCHOWSKI	4586	4588	4592 4601	4598 4602 4604	4605
AUGUST GINSCHEL	4606 4624				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
P-70-A	Sworn translation of P-70	4585	4586

Ta-493-10-4/
ehw-1
F1

Camp Dachau, Germany
4 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Lt. Colonel Wilson and Major Ceding, who are absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

MR. BERKOWITZ: I hand you a document and ask you to mark it Prosecution Exhibit 70A.

(The document referred to was marked Prosecution Exhibit No. 70A for identification.)

MR. BERKOWITZ: The prosecution offers at this time, may it please the court, a document marked, "Prosecution Exhibit 70A", which is a sworn translation, in English, of Prosecution Exhibit 70.

PRESIDENT: Any objection on the part of the defense?

MR. MCKAY: No objection.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Prosecution Exhibit No. 70A in evidence and give it such weight as the court sees fit.

MR. MCKAY: At this time the defense is requesting a former prosecution witness, Eduard Kiszmaschowski, who is a Polish man, and we will have to have a Polish interpreter. Call Eduard Kiszmaschowski.

PRESIDENT: The court understands that this witness, a former prosecution witness, has been previously sworn.

EDUARD KISZMASCHOWSKI, a previous witness for the prosecution, called as a witness by the defense, having been sworn previously, testified through a Polish interpreter and a German interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Will you state your name?

A Kiszmaschowski.

PRESIDENT: Just a moment. The witness is warned that he is still under oath.

WITNESS KISZMASCHOWSKI: I understand.

Q Will you spell your name for the court?

A K-I-S-Z-M-A-S-C-H-O-W-S-K-I, - Eduard.

Q Are you the same Eduard Kiszmaschowski that testified for the prosecution previously in this case?

A Yes.

PRESIDENT TO INTERPRETER: Have you got that name all-right, interpreter?

INTERPRETER: To the best of my ability.

Q As I understand, to the best of my ability, you were a prisoner in Flossenburg, is that correct?

A Yes.

Q Will you tell us the dates you were in Flossenburg again?

A I was there in February 1944 until the year 1945.

Q During the time that you were a prisoner in Flossenburg, did you ever come in connect with a man by the name of Karl Mathoi?

A Yes.

Q Will you explain to the court the nature of your acquaintance with Karl Mathoi?

A During the escape from Auschwitz in 1943, I was shot at three times. Five hours I remained wounded on the ground. Twenty thousand prisoners were watching but not one of them put out a hand to help me. The first one to help me was Mathoi. Although he was not allowed to, he took me into his arms and took me in the hospital and I received my first aid. After that, I came to Flossenburg, and in Flossenburg, Mathoi was the first one to help me. He told my superiors, the capos, that they should not beat me, and he said, "You should not hurt him because this young man has already suffered a great deal." And then he would help me out with food, soup and bread, and I am indebted to him for many things. Although he didn't know me very well, really he was very good to me.

Q What is your nationality, Mr. Kissmaschowski?

A I am a Pole.

Q During the time that you were in Flossenburg, were you acquainted with the reputation of Karl Mathoi among the foreign prisoners in Flossenburg?

A Approximately, yes.

Q Will you explain that to the court?

A Mathoi, as a political communist, was in thick with the

Russian officers. The Russians praised him. I talked to them about it and they told me.

Q Mr. Miesmaschowski, during the time that you were a prisoner in Flossenburg, did you witness any incidents in which Kathoi had any contact with foreign prisoners especially?

A As a camp eldest, he couldn't make any special friendship with anybody.

Q Were you ever involved in any kind of incident, in which Kathoi was present among foreign prisoners?

Q As a camp eldest, he did some beating, - he was nervous, - but I never heard he beat anyone to death. I didn't come in contact with him very often, because he was always somewhere else and I was working.

Q Will you look at that wall a minute.

A (The witness did as requested and as indicated.)

Q Do you think you could recognize Karl Kathoi if you saw him again?

A Yes; of course.

Q Will you look over the men seated in the dock behind me and see if you can see Karl Kathoi?

A Number 25.

MR. MCKAY: Let the record show the witness has identified the accused number 25 as Karl Kathoi.

Q And this is the man you have just been describing?

A Yes, that is the man.

MR. MCKAY: You may cross-examine him.

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Isn't it a fact that Kathoi was good only to those people who were his close friends in Flossenburg?

A Yes, but to those who were his close friends he was especially good.

Q And he was especially good to the Russian communists, was he not?

A Yes, it was well known he got along well with them.

Q Did you know Kathol as a hospital capo?

A Yes, I knew him, but I didn't go there because I was not allowed to go there.

Q Was not the reason that the camp eldest didn't make friends due to the fact that he had to beat the prisoners?

A How should I explain that.

Q Well, if you can, Mr. Kissmaschowski, I would like very much to have your explanation.

A As a camp eldest, on the one hand, he could not officially offer his help.

Q Anything else you wish to add to that?

A When he wanted to do something he would have to do it privately on his own because if anyone found out, he would be hanged.

Q Isn't it a fact that he couldn't make friends because he worked so closely with the SS?

A That is hard for me to explain.

Q Well, you say that is difficult to explain. Would you please give the benefit to the court of any explanation you can make?

A We all knew that he had been transferred to Flossenburg because he had had a friend there, an acquaintance, - the commandant of the camp, to be specific. We all knew that the commandant had had him transferred to Flossenburg and had made a camp eldest of him. We all did not share his polical viewpoint, because we were threatened with the penalty of death if we would give voice to our political convictions.

Q Now, wasn't it a fact that Kathol would beat those who were not of the same political faith as he?

A I didn't know of any incidents in this regard. As a

camp oldest, the only thing he had to do was to keep order in the camp and that has not anything to do with politics.

Q And for whom did he maintain this order?

A As a camp oldest, he was ordered to do that by the SS, by the higher circles of the camp.

Q Why was it necessary for Kuthol to tell the capos not to beat you?

A Because when I got to Flossenburg, he recognized me and knew that I had been shot at before. He said that he would not tolerate that anyone would hurt me in any way because I had been an old prisoner and had suffered so much and should go out unharmed.

Q Wasn't it a fact you would have been beaten by the capos if he hadn't interceded?

A Yes, because we arrived in Flossenburg in a punishment transport and we all had to suffer because of it.

Q And part of that suffering would have been in the form of beating, wasn't that correct?

A Yes, because we were mistreated very badly and people thought the worst of us because we had arrived in Flossenburg where we were looked upon as the roughest type of criminals.

Q And who were the capos that "other" instructed not to beat you?

A When I arrived in Flossenburg, Kuthol took me in the middle of the capos and said, "This man will not be beaten", and then he went on and related to them what I had experienced and what I had suffered.

Q In other words, the camp oldest could instruct the capos as to who should be beaten and who should not be beaten, is that correct?

A Yes, as a camp oldest, he had an influence over them,

and they always had to take him into account.

Q Were other prisoners who came there to Flossenburg on the same transport with you beaten by the capos?

MR. MOKAY: That is objected to for the reason that it goes beyond the scope of direct examination.

MR. SECUTE: I think the court will recall that this witness testified on direct examination that Mathoi had instructed the capos that he was not to be beaten. Now, he has opened up one side of this transaction to show the favorable portions in behalf of Mathoi, and we have a perfect right to show the whole transaction and ascertain whether there is any portion of it which is not favorable to Mathoi.

PRESIDENT: The reporter will repeat the question, please.

(Whereupon the reporter read the question, as requested.)

PRESIDENT: The objection by the defense counsel, Mr. Mokay, is overruled.

A That happened daily and I got beaten myself in spite of the fact that he had given out such instructions.

Q Do you recall any of the capos by name that he gave these instructions to?

A They had no special instructions which he gave out. It was just a general conversation. I had just arrived in Flossenburg by a few days and I didn't know the capos by name.

Q Did you later learn any of the capos by name?

A Yes, there was one capo there I remember. He wore a green triangle and later on was in Block 2, but I didn't know his name. I can recognise him by looking at him.

Q Look over in the dock, please, and see if you recognize

(Kiszmaschowski-Cross)

any of the capos there that received these instructions not to beat you.

MR. MCKAY: I object to this as going beyond the scope of direct examination. This is purely an attempt on the part of the prosecution to force this witness to testify against people in the docks, for which we have no statement at this time.

PROSECUTION: May it please the court, I think it is useless to go over this same thing time and time again. This man has testified on direct examination that capos when he was in there, were instructed not to beat him. We have a perfect right to inquire into the circumstances concerning the instructions given by Muthoi.

PRESIDENT: The objection of Mr. McKay is overruled.

A He is not present here. One of those capos there was lame and theother was an Austrian, - that wasn't the one that was lame, that was the other one. Austria was his native land and I know him very well by looking at him.

PROSECUTION: No further questions.

PRESIDENT: Re-direct? Mr. McKay.

RE-DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q You stated that the transport on which you came from Auschwitz was a punishment transport. What did you mean by that?

A For the main part, they were Poles who had been prisoners in Auschwitz. New circumstances had arisen and also in the political department and a group of many of these prisoners was formed and we were threatened with death. We were specifically called to the political department and there we were told we were to go to Flossen-

burg for punishment and that there we were to work in the quarry. I myself got a special punishment. I got 50 blows on the rear. We were told that death was threatened and that we were marked for death. Then we were transported forcibly into the quarry for work. After we arrived in Flossenburg, we got a special designation by having to wear a red triangle, but not like the other prisoners in Flossenburg.

Q Now you stated first that what Kathoi gave as camp eldest to the capos, was instruction. Later on, you said it was something else. Will you explain just what it was that Kathoi did with regard to the other capos when he advised them not to harm you.

A When we arrived in Flossenburg, we went to Block 26, and Kathoi, the camp eldest, came to us. It was about two to four days after the arrival. When Kathoi recognized me in the block, he was amazed that I was there. There were a few German gentlemen standing around there and he said to them, "There will be no beating as far as this man is concerned because he had already suffered too much."

Q You stated that Kathoi was friendly with the Russians. Did you ever observe what reaction this contact of Kathoi's had on his relations with the SS?

A I cannot tell you that exactly. All I can say is that I often saw him when work was finished talking to five or six Russians. They talked together and cracked jokes.

Q Were you ever present at any incident with Kathoi and the Russians in the block?

A After work had ended, I would see him. I would also see him in the bathing building. The Russians worked down there in the bathing building and I would often see him down there.

PRESIDENT: The court will be recessed for thirty minutes.

(Whereupon the court, at 1000 hours, recessed.)

Camp Dachau, Germany
4 October 1946

MORNING SESSION

(Thereupon the court reconvened at 1055 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Minter, who is absent on business for the prosecution; all the personnel of the defense are present with the exception of Major Ording and Mr. Wall, who are absent on business for the accused; all accused are present with the exception of Gramlich, Olschewski, and Puddenzig, who are sick in the hospital, and whose interests are being taken care of by counsel; the witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses, will they please leave the court room?

PRESIDENT: Colonel Wilson, do you want a short recess?

DEFENSE COUNSEL: Yes, sir. About a minute ago my attention was called to a question that has come up --

PRESIDENT: The court would like to see the senior prosecutor and the senior defense counsel. [illegible]

(Thereupon a discussion between the president and the senior prosecutor and the senior defense counsel ensued.)

PRESIDENT: [illegible] Court will take a short recess in place.

(Thereupon the court recessed in place.)

(Thereupon the court reconvened at 1120 hours.)

PRESIDENT: The court will come to order. Colonel Wilson.

DEFENSE COUNSEL: May it please the court, a matter has been brought to the attention of the defense by the German attorneys associated with the defense on which I request the court to hear the German attorneys.

Ka 404 10-4-bab-2

PRESIDENT: Doctor Englehorn.

DOCTOR ENGLEHORN: I, Doctor Englehorn, lawyer, give the following explanation in the name of my colleague, Doctor Wecker, also a lawyer. We German lawyers ask the court to accept our resignation from our position as defense counsel. The reason for this is the following: In the Southern German Newspaper Number 79, of October 1, 1946, an article was printed -- an attack against the German lawyers, the German lawyers in the Nuernberg process -- Nuernberg trials. The following is being said in this article:

> "The Cologne Bar Association suggested that the defense counsels of the twenty-one accused and six organizations in the Nuernberg War Crimes trial will be politically investigated after the trial is terminated."

As lawyer Doctor Wilkie, the administrative chief of the Cologne Bar Association, informs us, this suggestion was being discussed in the Bar Association and was to be discussed in all the Bar Associations in the British zone. It further says:

> "This suggestion was made because of numerous letters that were submitted in which the defense counsel in Nuernberg were branded as Nazis."

We, as defense counsels, do not want to run the danger of having action taken against us by our own bar association, and eventually being punished by them. For that reason we should like to resign.

PRESIDENT: Doctor Wecker, do you wish to add anything?

DOCTOR WECKER: I do not have to add anything to Doctor Englehorn's motion, but I, also, move in the same manner. I should like to add that this article is the sole reason for our motions.

PRESIDENT: Colonel Wilson, do you have anything further to add at the present time?

[illegible] COUNSEL: I might suggest that there is a rather

close relationship between the International Military Tribunal at Nuremberg and such courts as this, established by a chain of USFET directives which I will not take the time of the court to detail, and that such being the case, I feel that the remarks of Doctors Kaufmann and Seiler should be given consideration by this court.

PRESIDENT: Colonel Dixon.

PROSECUTION: May it please the court, from the article that has been read to the court it appears that nothing more than the denazification process which has been established by the German people with the approval of the military government is threatened against attorneys that have appeared in Nuernberg, and that based upon the numerous letters that have been received concerning last activities of the various counsel who participated in Nuernberg. It might be pointed out to the court that every German is subject to the action of this denazification committee. While I am in favor of protecting these counsel in every conceivable way, I feel that any action that this court might take based upon the ground stated by counsel would be of no avail. This court is certainly not in a position to say whether these two counsel are or are not Nazis, and the court is further obviously without power to prevent any action that might be taken with respect to these two gentlemen by the denazification organization of the German people.

PRESIDENT: Doctor Kaufmann.

DR. KAUFMANN: This affair has no connection with the denazification boards. This article is to be traced back to the Cologne Bar Association. The bar association is the higher authority which supervises lawyers. Both of us lawyers are under the Stuttgart Bar Association, and we should like at the present time

to prove that because of this article we were skeptical about going on with our defense work.

[illegible] anything further, Colonel Dixon?

[illegible] I might suggest that anything that the court might do at this time will at least assist in a further clarification, if such becomes necessary, of the position of these two attorneys.

PRESIDENT: Anything further, Colonel Denson?

PROSECUTION: Nothing further.

PRESIDENT: The court will deny the recusation of Doctor Seiler and Doctor Englehorn from further participation in this case -- that is, the Flossenburg trial. Doctor Seiler has acted in the capacity of defense counsel for the Flossenburg trial since June 28, 1946, and Doctor Englehorn has acted in the same capacity since July 9, 1946. The court fully appreciates the actions of both Doctor Seiler and Doctor Englehorn in their efforts in defending the various specified accused in this particular case. The court feels that any change in defense counsels in the Flossenburg trial at this time might seriously affect the status and the rights of the various accused represented by these two defense counsels. The court fully appreciates the possibility of future action against these two defense counsels -- that is, Doctor Seiler and Doctor Englehorn, on the part of their respective bar associations or bar associations, or other groups of the German people. The court at this time wishes to assure both Doctor Seiler and Doctor Englehorn that this court, and I myself, personally, will do everything possible to protect their interests in that respect, not only at the present time, but in the future. Now, both Doctor Seiler and Doctor Englehorn have acted in the capacity of defense

counsels in the Flossenburg case with the authority of the Military Government of the United States and with the permission and authority of this court. This court was assured before that permission was granted by the court that both these German defense counsels had been screened and passed by the Military Government. The senior defense counsel, Colonel Wilson, had so assured this court. Now, in order that there be no misunderstanding at the present time and in the future, this court hereby appoints nunc pro tunc Doctor Becker as a defense counsel in the Flossenburg trial as of June 28, 1946, and Doctor Englehorn in the same capacity as of July 9, 1946. This action is taken under the authority of the Military Government of the United States and also the authority vested in this court in the Flossenburg trial. Court will take a short recess. The court would like to see both the senior prosecutor and the senior defense counsel.

(Thereupon the court recessed in place.)

(Thereupon court reconvened at 1148 hours.)

PRESIDENT: The court will come to order. Continuation of cross examination, or had you finished, Colonel Dunsmuir

PROSECUTION: I think Mr. McKay has it next.

MR. MC KAY: I have completed my redirect.

EDWARD FITMASCHOWSKY, called as a witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You stated, did you not, that you received fifty strokes on your rear?

A Yes.

(Fitmaschowsky-resumes)

Ta 494 10-4-bob-6

Q Who was it that administered those fifty strokes?

A That was shortly before I left Auschwitz. It was the SS men that did that by order of the political department.

MR. MC KAY: I move to strike the answer as irrelevant and immaterial.

PROSECUTION: May I ask one more question -- did that beating take place at Flossenburg or at Auschwitz?

A In Auschwitz shortly before I left.

PROSECUTION: We have no objection to excluding that testimony.

PRESIDENT: The motion on the part of Mr. McKay is sustained.

QUESTIONS BY THE PROSECUTION (CONTINUED):

Q Now you stated, did you not, that this transport was sent to the quarry for punishment, is that correct?

A Yes.

Q And what type of work did you have to do there in the quarry?

A We had to do physical work there in the stone quarry. But there was a change in Flossenburg, and a large part of us were sent to the factory.

Q And before that change took place did you have to carry stones there in the quarry?

A Yes.

Q And were those stones great big stones?

MR. MC KAY: The question is objected to as being too vague and irrelevant. Big stones -- what do you mean by big stones?

PROSECUTION: Let the witness tell us.

(Kitmaschowsky-recross)

Mn 404 10-6-bob-7

PRESIDENT: The objection of Mr. McKay, the defense counsel, is overruled.

A I carried stones according to my strength. If the stones were too large, I couldn't carry them, of course.

Q And were the other prisoners in that detail required to carry large stones or small stones?

A The rocks or stones were about twenty to fifty kilos, because they couldn't carry heavier stones than that.

Q And were the prisoners beaten when they couldn't carry all the stones they were required to carry?

A Our detail was especially austere and after a few days two men couldn't carry the stones any more -- couldn't go on -- so they committed suicide by throwing themselves at the guards.

Q And approximately what date was that?

A It could have been between the 12th and 15th of February, 1944.

Q And who was the cops on that detail?

MR. MC KAY: That is objected to as going beyond the scope of direct examination.

PRESECUTION: May it please the court, he brought it out on redirect examination. I have the right to go into the entire transaction.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

A When this transport arrived in Flensenburg they selected capos from our transport and these were our capos.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Mr. McKay?

(Kitmanchonsky-recross)

REDIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. MC KAY:

Q Was this work you just talked about actually in the stone quarry or was that on a road near the stone quarry?

PROSECUTION: I object to that as being leading and suggestive.

MR. MC KAY: If the court please, in the cross examination of this witness he stated that he worked on a road construction detail, and now he stated he worked in the quarry. Now there is some confusion which I wish to clear up. I want to know which he worked on -- the quarry or the road.

PROSECUTION: Might I respectfully suggest that counsel ask the witness where he did work?

PRESIDENT: The objection of the prosecution is sustained. Record your question.

QUESTIONS BY MR. MC KAY (CONTINUED):

Q Now in your cross examination you stated upon your arrival at Flossenburg you worked on a road construction detail. Now, in the examination by the prosecuter you stated you worked in the quarry just as soon as you arrived. Will you tell us just where you did work?

A The defense misunderstood me. The road construction was right near the stone quarry and we had to carry stones from the stone quarry to the street -- the road. I look upon this work as being work in the stone quarry, not road construction.

Q How far did you have to carry the stones from the quarry to the road?

A Part of the prisoners drove these rocks with a small field railroad, but there were not enough field railroads around

as part of the prisoners had to carry the stones.

Q Yes, but what was the distance in meters from the quarry to the road where they were carried?

A That all depended on where they were working on the road. If the work was advanced then you had to carry stones farther.

Q But can you give me an estimate of that distance in meters?

A When I was working there it could have been one hundred, one hundred twenty, one hundred fifty meters, because the stone quarry was right there.

Q Did you just state that your capos on this detail were from the transport that came from Auschwitz?

A Yes. I know the names of these capos.

Q What were they?

A Helmut, Hägelmann, Winter, Alois Staller. I can't remember the other names.

Q Did Alois Staller come from Auschwitz with you on this transport?

A Yes.

MR. MC MAY: That is all.

PRESIDENT: Recross?

RECROSS EXAMINATION (CONTINUED)

QUESTIONS BY THE PRESIDENT:

Q Was Jaroslik also a capo in charge of this detail?

MR. MC MAY: The question is objected to for the reason that it goes beyond the scope of direct examination and is also argumentative in that it is an attempt to argue with the witness the facts he has just related. He says the capos came on the

(Kitmagchowsky-recross continued)

transport with him and he names them, and now the prosecutor wants him to testify by arguing wasn't this person there.

PROSECUTION: May it please the court, counsel just not one minute before asked this man who the capos were and their names. He got the names of all but those he didn't remember. I have a perfect right to ask if one was Bathoi, Jakubith, Hauser, or anybody else, to ascertain who was in charge of this detail. He brought this before the court, I didn't. There is absolutely nothing argumentative about the question. I merely asked whether Jakubith was capo of that detail. I am asking him a question of fact which he has a perfect right to answer.

PRESIDENT: The court will recess until one thirty this afternoon.

(Thereupon the court recessed at 1200 hours.)

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Flossen

(Thereupon the court reconvened at 1345 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Colonel Pilcon, Major Oeding and Mr. Hall who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, and Oswald who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained. Continuation of recross examination.

EDWARD KIESMACHOWSKI, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

RECROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION (Continued):

Q Who was the capo in charge of the stone quarry?

A There must be a distinction made here. There we worked there was a different quarry and it had a different capo. There was another quarry and the capo there was Leopith, and this distinction must be made to the court.

Q Now this man that you call Alois Steller, was he otherwise known as "Bloody Alois" in Flossenburg?

A Yes, he got this nickname in Auschwitz.

PROSECUTION: No further questions.

Kiesmachowski - Recross)

PRESIDENT: Redirect?

MR. MC KAY: Nothing further.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have testified that Mathoi was especially good to his close friends.

A I have to state here that he acted towards me very good. He always treated me very good and I told the court what I can remember.

Q What was the general reputation of Mathoi as far as the treatment of inmates was concerned?

A There were different opinions in this respect.

Q Well, what were some of those opinions?

A There were some who stated that he was firm towards them, and there were others who stated that they had been harmed by him, and he always had a good word for the Russians.

Q Now you have mentioned also, that Mathoi remained on friendly terms with certain Russian officers.

A I heard that from other prisoners, and sometimes I saw him walking with them.

Q Now you mentioned also that this friendship was based upon certain communistic ideas of Mathoi.

A That is the way we talked among each other, and that is the way it was supposed to be.

Q Now what the court wants to know is whether Mathoi was connected with any communistic activities in Flossenburg, or not.

A I am not informed as to that. I do not know what was

(Klemaschowski - Court)

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going on among them.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q Did you ever hear of him beating a Russian to death who came to the hospital with stomach trouble?

A I don't know that. I only know what happened to those prisoners who were close to me, in whose group I was. Those people were always faced with a natural death or death by beatings.

Q Did you ever hear of him throwing a Russian out of the window of the hospital?

A It is possible, but I personally don't know that.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. MC KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: The court understands that the defense is finished with this particular witness. The witness will be excused.

(Thereupon the witness was excused and withdrew.)

MR. MC KAY: The next accused who desires to take the stand in his own behalf is the accused Ginschel, No. 15.

PRESIDENT: Do you desire to take the stand in your own behalf, Ginschel?

ACCUSED GINSCHEL: Yes.

AUGUST GINSCHEL, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

PRESIDENT: Proceed.

(Klosmachowski - Court)

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Mr. Ginschel, are you one of the accused in this case?

A Yes.

Q What is your age Ginschel?

A 24 years old.

Q When did you come to Flossenburg, Ginschel?

A August 2, 1943.

Q Now will you explain to the court the reason why you were sent to Flossenburg?

A Before I was sent to Flossenburg, I had a sentence of 15 months.

Q And for what was that sentence of 15 months given you?

A I was accused of having given passports to people who were politically unreliable.

Q Had you any previous prison sentences prior to this?

A One.

Q What was that for?

A Embezzlement.

Q Will you explain to the court just how much time you have spent in penal institutions?

A 18 months altogether.

Q Had you ever been in any other kind of custody other than for criminal purposes?

A No.

Q When you arrived in Flossenburg, what color triangle were you given?

A At first, I wore the red one.

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Q How long did you wear a red triangle?

A Approximately 4 to 5 months.

Q Then what happened?

A Beginning of March, 1944, I was called to the political department to a certain corporal Kummann, and the other man there I didn't know. I was then asked whether I still had a family on the outside. I said why, that is none of your business. He said, you will go through the crematory anyway.

Q Mr. Ginschel, I notice you have but one good arm. Will you explain to the court how you lost the use of that arm?

A To give an explanation to the court I have to go back to the years from 1934 to 1939, pardon me, from 1934 to 1935.

Q Explain it.

A In the year of 1934, I was in a Catholic youth organization and when they organized the Hitler Youth in our village they wanted to force me to leave the Catholic youth organization and join the Hitler Youth. I refused to do that because I was not very enthused about that organization. Still, I was taken over into the Hitler Youth and I received the uniform from them and one day I was forced to do duty in the Hitler Youth. To have a reason to get out of this at one time while doing duty, another boy by the name of Chopin and I tore down the Hitler Youth flag, stepped on it, put gas on it, and burned it. We were not careful when we burned it so we burned a curtain also. It was during an intermission. Our Youth platoon leader, Bender, reported it immediately and we were beaten up quite well. The platoon leader threatened to report this to the Bannfuehrer, and he did that later on. A few days later I was picked

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up from school in an automobile shortly before 12 o'clock. It was shortly before noon when the school teacher called me out and I was put in an automobile and they took me away. I was taken to the children's home, Burgbraintz near Leobschultz. For 6 or 7 months I was there and then this institution dissolved. Then I came into the children's home of Bilschowagrend in Oleiwitz, the former Bilchowitz. I remained there until I was 13 years old and then because only children could stay there up to this age, they graduated from school and I was sent to the youth protective custody camp, Grottkau.

Q How long did you remain there?

A I remained there in Grottkau until my accident.

Q What was the nature of your accident?

A First I was forced to learn the profession of a milker. Our milker master was an SA oberscharfuehrer. The whole camp was guarded by SA. This milker master subjected me to chicanery and I didn't like so I took off. When they missed me, they came after me and discovered me shortly before they reached the railroad. They fired 10 or 12 times after me. I saw a train coming from the far side and because I didn't have any other place to go I wanted to cross the railroad tracks. I ran into this driving train and then I noticed that my left hand was gone, that my shoulder bone, my left wrist and left ankle were broken. An hour later an ambulance came and took me away to the hospital in Nessie, my home town.

Q Now Ginschel, during the time that you were in Flossenburg were you still with your handicap of only one arm?

A Yes.

Q Upon your arrival in Flossenburg, to what detail were you

assigned to work?

A At first I was sent over to the weaver shop for 3 days.

Q Then what happened to you?

A Then I wound up in the crematory.

Q What do you mean, you wound up in the crematory?

A After I came from the jail, I was hungry and undernourished and when I was in the block and the food was distributed I was also in line. This food was handed out by the blockeldest and I was standing in line and I got one in the head with a soup ladle.

Q Well, how did you get in the crematory?

A I don't know. They explained that to me after I woke up. I was probably taken down there and when I awoke, it was cold and damp down there, and dark and no one was there. I called around first and then I crawled around there and I noticed that dead bodies were falling on me. I must have been lying there for 3 or 4 hours when I heard a noise outside, although I had been crying for help before that. When I heard a noise outside I cried again. The door opened and the crematory capo, Paul Steminski entered. He was surprised and said, what is going on here. There was a Ukranian guard with him who said you have to shoot him again. The crematory capo asked why, and the Ukranian guard said this man has been executed. He said he needs a shot through the neck. He then got into an agreement with the guard and they took me outside to the room where the stove was. He washed me because I was all covered with blood and I already had my corpse number 4063 on my chest. He then gave me a pair of pants and jacket and a pair of wooden shoes. And after we finished we went back to the camp, the guard stayed

outside, and he and I went to the hospital. Because my head was swollen, I received a cold pack on my head and I was sent back to block 21. When I returned the prisoners said, well, you are living again. I said, why, was I dead? The prisoners said that I had been unconscious inside the block from 12 to 4. At that time it was very cold around there and they assumed I was dead. The blockeldest who had to make the strength report had me taken to the hospital. Later on, the Pole told me that Major Schnabel had looked at me and said, he is an invalid--he is dead. At that time he was drunk and was not able to determine anything because of that. I don't know whether he was drunk actually or not because I didn't see him.

Q Now Zinschel, after you were again returned to the block, what was the next detail you were assigned to work on?

A To the laundry.

Q How long did you work in the wash kitchen?

A Until about the 20th of September, 1943. Then I was reported to the labor commitment leader that I was not able to do the work and he gave me a job at the gate of the hospital.

Q What work did you actually do while you were in the laundry?

A Off and on I folded towels and when the detail leader came and I didn't have anything to do, I took off and I hid. Nothing else I did. Off and on I swept the floor, that is about all.

Q How hoy long did you remain on this gate of the hospital?

A Until the 28th or 29th of October.

Q Of '43?

A Yes.

Q What did you do while you were on the gate at the hospital?

A I had to watch so that people who were not sick wouldn't enter the hospital and people without a pass wouldn't enter the hospital and do blackmarketing. I had orders to only let those in who had a certificate from the doctor, other than that, no one. Furthermore, I paid attention that if anyone was cooking up something in the hospital, I would warn them if Capt. Fritsch was coming to the hospital; I would do that because there were some prisoners in the convalescent ward who should have been sent away, but they were still there so I warned them so that the ones who were half healthy could disappear because if he had seen them, he would have sent them to work. Capt. Fritsch had the nickname of "Stumbchen".

Q Now what happened after you were on this gate in the hospital, what did you do next?

A Then I was sent to the camp gate, as camp runner. It was my duty as camp runner to open the gate whenever a car would enter or if anything was to be picked up inside the gate I had to do it, or whenever the orderly room called me to take away some death certificates, I would pick them up and take them to the political department. That was all I had to do.

Q Now, Ginschel, I call your attention to prosecution exhibit No. 5 which is a plan of the camp and ask you to come over here and point out for the court the main gate of the camp where you had to stay when you were acting as camp runner.

A Approximately here (indicated).

Q Is that when you worked on the camp gate?

A Camp runner, here. (Indicated).

MR. MC KAY: Let the record show that the witness has indicated the opening in the compound enclosure directly behind a

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A I had to watch so that people who were not sick wouldn't enter the hospital and people without a pass wouldn't enter the hospital and do blackmarketing. I had orders to only let those in who had a certificate from the doctor, other than that, no one. Furthermore, I paid attention that if anyone was cooking up something in the hospital, I would warn them if Capt. Fritsch was coming to the hospital; I would do that because there were some prisoners in the convalescent ward who should have been sent away, but they were still there so I warned them so that the ones who were half healthy could disappear because if he had seen them, he would have sent them to work. Capt. Fritsch had the nickname of "Staubchen".

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Q Is that when you worked on the camp gate?

A Camp runner, here. (Indicated).

MR. MC KAY: Let the record show that the witness has indicated the opening in the compound enclosure directly behind a

block which has no number and in front of a line representing a barricade, all on prosecution exhibit No. 5.

Q You stated that you were called to the orderly room. Where was the orderly room?

A It was approximately here. It was near a music center and the postoffice, and here approximately was the orderly room (indicated).

MR. MC KAY: Let the record show that the witness has indicated that the orderly room was in the block marked in red with the figure 1, and he also indicated that in this block was the music room and postoffice to the left of the orderly room.

Q How long did you continue to be runner?

A Until about the 15th of February, 1944.

Q What happened to you then?

A I was relieved and was then sent to 2004 as rivet carrier. The reason for that was that prisoners had come back to the camp during working hours and had gone inside of the camp and went to sleep, and only came out when it was time to do so. Then he relieved the camp runner and gave the keys to the blockleader who had to lock and unlock the gate himself. Later on when Steinbahm, Captain Fritsch had the nickname Steinbahm, left, this situation was discontinued.

Q How long did you continue to work as rivet carrier in 2004?

A Until about the 22nd of May, 1944.

Q During the time you worked in 2004, in what hall did you work?

A Civil hall, C-2. Quite often I had business with C-4 because I carried rivets for them too.

(Steinbahl - Direct)

Q What happened to you on the 22nd of May, 1944?

A I was relieved because I asked for it and I was sent to Pipl.

Q How long did you stay with Pipl?

A 3 days, then I was sent to Mora, the detail leader of the transport detail.

Q How long did you stay on that detail?

A I have to mention here that the transport commando was under a certain Dillmeier.

Q What did you mean when you said it was under Mora?

A The woodyard detail and the transport detail were together because Mora had the job of leading them outside and making the report.

Q Where did he take them from?

A Whenever we marched out of the camp we had to march all together but each detail, the woodyard and transport detail, had their own capos. But those two details were combined because there were only a few men on either one. The real capo was Dillmeier on the transport detail.

Q How long did you remain on the transport detail?

A Until the 28th or 29th of May, and then I was sent back to the camp. I became block orderly in block 1.

Q What were your duties as room orderly in block one?

A For one thing I kept night watch at night and then in the morning I would sweep the floors, the living room and then I would clean the latrines, the corridors and the washroom. The first room orderly was Hoffman. I was assistant room orderly. Off and on I would distribute the food whenever Hoffman wasn't around at noon.

(Ginsehel - Direct)

In the afternoon, after the details had marched out again, I had to put the chairs up on top of the lockers, sweep the rooms and clean up the washroom again. Then I didn't have anything to do from 3 to 4 o'clock, so I took a rest. At 4 o'clock, I picked up the bread for the block. I distributed that into the lockers, not like the other blocks, but right into the lockers under Hoffman's supervision. After that had been done, I had to go and pick up some more rations such as butter, sausage or margarine, whatever was there. I picked that up and put thatinto the lockers also. Then I didn't have anything to do until the details got back.

Q What kind of people lived in block 1 that you were orderly of?

A In block 1 there were several prominent people.

Q What do you mean, several prominent people?

A There were 4 French generals, 19 members of the Hungarian state police, a Czech minister, two Hungarian ministers, one minister and one Hungarian major general, Russian officers and a few Germans. There were about 168 people in the block and during the last period, there were about 40 to 45 Germans.

Q What work did these Germans do who were living in block 1?

A 2 or 3 men of these Germans worked in the kitchen, 2 worked in the laundry, 4 or 5 of them were foremen in 2004, or else warehousemen in the stone quarry. 2 or 3 were in the warehouse of personal belongings for prisoners. Some of them worked themselves, in the stone quarry, 7 or 8 were in the horse stables, one of them was the capo of the construction office, Rodel. Gustav Sauber was the blockeldest.

Q Did you have any duties to perform for these people who

lived in block 1, other than those you described to the court?

A I did this on my own. Every week I would carry the laundry of these people to the wash kitchen which had not been done before so they had clean laundry on Sundays. I picked up the beer for these people and then I saw to it that I could steal coal mainly in the winter time for my block. And I saw to it that I organized brooms and oil, and other things hard to get.

Q Now you say you did this on your own. What do you mean when you say that?

A The camp administration and headquarters didn't give us anything with which to keep our block clean. Because block 1 was a clean block, and we didn't want to dirty it, we would see to it that we kept it as clean as it had been. We had people bring brooms or oil along from the stone quarry and we paid for it from our own and when I say that, I mean everyone contributed, the Germans as well as the foreigners. We paid these people with bread.

Q You stated that you used to carry laundry out for these people, go to the canteen and get them beer and so forth. Will you explain to the court what remuneration you would get for that?

A Nothing. The only thing was that whenever they wanted beer you could get two bottles of beer for 50 pfennigs and for the other 50 pfennigs you could get only pepper or something like that, and what could I do with that? I'd just throw it away. Whenever I came back from the canteen and I had any of this stuff such as pepper or cinnamon, I'd just throw it away and the Russians would catch it. That was the only advantage I had.

Q Now, will you explain to the court just what you had to do as orderly in block 1 with regard to distributing the food in front

(Sinsheimer - Direct)

of the block?

A I handed out food in front of block 1 twice. The rest of the time I used distribute food inside of the door, because I had been attacked outside when I handed out food twice. I also got extra food from the campoldest for people who had been working hard. Whoever had been working in the wood detail or the crematory details would get extra food. Sometimes I received 6 vessels and they were supposed to last for 250 people. When I left the block with these kettles that were handed out, instead of 250 people lining up in front of the block, there were 5 to 6 hundred.

Q You spoke of the fact that twice you had been attacked by the prisoners; will you explain that to the court?

A Yes, that was in January of 1945 when I started to distribute the food on the outside. I took four kettles outside with food for 150 men and I had all details answer for roll call. I counted the people and it was correct. There were 150 people there, those who should get the food. I went along and I also had a Russian with me, a man by the name of Scharelov Mischka. Mischka was there to hold the people away and see to it that no one else would step into line. When the first two kettles were handed out, everything was all right, but when these people saw that there was one more kettle of food with 20 to 30 liters, they all converged and came towards me and I was sitting with my buttocks in the hot soup. I was lying in the hot soup and I scalded my lower arm. The arm was bleeding also. Someone must have wounded me with a wire or something like that. When I got up the kettle and the soup ladle was gone. Among those 250 that were standing there, they stole the kettle including the soup and ladle and took off with it. The

(Closelunch - Direct)

kettle was standing behind the kitchen and the ladle was between block 2 and block 1. I took the ladle and went back and all the others had gone already because Wischka had chased them away. I then went to the tailor shop and a small man there named Jurgen, bandaged me.

Q You say this happened to you on two occasions, what was the other occasion when this happened.

A The second time was about March. I only had two kettles outside. The kettles were in front of the stairs. I had people go through this corridor and come around this way so that they shouldn't stand in front of the block (indicated). I again handed out food and when it was going towards the end I turned around towards the other kettle and as I turned around they pushed me and again I fell into the hot soup. Wischka was watching this side here and the Pole who worked in the canteen was watching this side here (indicated), but still they sneaked in from here and from there. Again I was sitting in the soup, and my jacket was torn. I got up and ran away but as I ran away of course I turned around and swung my soup ladle like this (indicated). All of a sudden the compoldest came out and beat them up and then they left. These were the two times. Then I asked the compoldest to please write a note whenever the details would return so I could hand the food over to the commando leaders so I wouldn't have anything to do with it anymore.

Q You just said you used the soup ladle after you got out of the hot soup to hit some of them. Describe to the court how you hit them.

A I didn't do that when I got up. I was doing that when I was still on the ground with the ladle in my hand. It was too hot

for me in there and I wanted to get out and I turned around because they were lying on top of me and that is the way I did it. I swung around like this (indicated).

Q Did you hit anybody?

A I don't know whether I hit anyone or not. I got up and just ran away and they also got up and ran away when Uhl came out.

Q Describe for the court how that soup ladle was constructed.

A The handle of it was about that long (indicated).

Q Estimate that in centimeters.

A 40 to 45 centimeters; about that wide (indicated). If I grabbed it like this I could cover the top (indicated). The one ladle was made out of metal and the other one out of aluminum. They were made in 2004.

Q Do you recall an incident in January of 1945 in front of the canteen in which you had some trouble?--trouble with the prisoners?

A I didn't have any difficulty, not that I can remember.

Q Do you recall ever having any difficulty in front of the kitchen?

A In front of the kitchen, yes.

Q Explain that to the court.

A When I left the block several Poles and Russians were watching if the orderly wouldn't come out pretty soon to pick up his food. I was watched like a criminal was being watched who wants to go and steal. I stepped out of the block and I said 'come here' in Russian, because I could speak a little Russian, and just as I said that, 30 or 40 figures were standing around me. I didn't need that many to pick up my kettles. I only needed 5 and 30 were around me.

We had to stand in line because they would hand out the food by blocks. The moment the men who fell block 1, all would just storm up the stairs and instead of the 5 men I needed, 30 would go in there. Everyone wanted to be the first one, everyone wanted to carry the kettles and while they were fighting a few would fall down the stairs. I told them that 5 were enough and that the other 30 could report at night or get food at a later time or that it would be their turn at some other time. When I went back to block 1 from the kitchen, I formed some sort of a scrimmage line here, a man here and a man there, and just shortly before I reached block 1, someone came along and tripped one of the men so that the kettle fell down on the ground. I went after this man and boxed him on the ear, and at this moment they would be down on their knees and scrape the soup into their bowls. I took off again and I went back to block 1 with my 4 kettles of food. I only had 4 then instead of 5. I was lucky that I didn't have to account for this food because people in our block didn't eat very much anyway.

Q Why didn't the people in block 1 eat much?

A There were Czechs in block 1 who received 2 to 3 and sometimes 4 packages a week. There was kitchen personnel in the block and their food was always sent over to the block, and there were also people living there from the post office, and also the personnel belonging to the warehouse of the prisoners, and they organized their food on the outside. Sometimes I picked up 5 kettles of turnips and when I got through, they had eaten 2½ kettles full and the other 2½ kettles were excess. Whenever they had such lousy food as the leaves of turnips, I didn't even bother to go to the kitchen because they wouldn't eat it anyway.

Q What would you do with this extra food that was left over

in block 1?

A There were enough guards around who would pick it up at night.

Q What do you mean, guards?

A After the roll call they would come to me and look at me first and then say, don't you have anything to eat for me, and then I would tell them to go to block 1. They would line up in front of block 1 and I would give them the food, and at least 3 or 4 times a week I would carry a kettle or two over to the juvenile block, block 19, of surplus food. And everyone knew they could always get something to eat in block 1 and that is the reason why they always come to block 1. After I had distributed the food for the different details then I would hand out the surplus food from block 1. The square in front of block 1 was crowded every night because they would come around as they knew there was surplus food.

Q When did you cease being orderly in block 1?

A When I was drafted to the camp police.

Q When was that?

A Approximately the 10th or 12th I was taken outside and brought to the SS barracks--about the 14th, not before that because I had only been in the SS barracks one day.

Q Prior to the time that you moved into the SS barracks, did you receive any kind of a uniform?

A Yes, I received an Italian uniform.

Q Did you take any kind of training?

A I didn't receive any training, but to reach fraulein again and not to sit behind barbed wire fences, I ran along. At first the others just did left thee and right thee and later on they would

(Sinsheimer - Direct)

march out, pick up rifles without ammunition from the ammunition supply room and when they returned at night they would hand their rifles into the supply room.

Q Why didn't you take that training too?

A I couldn't handle such a rifle; I never had any kind of rifle in my hand before.

Q Well, what duties were you supposed to take over in the camp police?

A I went in there so I could take advantage of the first opportunity to take off, to escape. That was for me the best opportunity to escape, right from there.

Q When did you actually leave Camp Flossenburg?

A Before I went on this transport, something occurred, some sort of a revolt against the SS; I have to mention that.

Q What was that?

A We were outside of the camp and there were a couple of men named Albrecht and Rehlke and one of them was a colonel who had been taking care of the training of the camp police. At that time 12 of us were together in one room and we were talking about it. We said they had something in mind with us. In other words they wanted to do something with us and we had to be cautious; so as soon as we would get weapons we would revolt against the SS. What we wanted to do at first was to occupy the main gate and then occupy the stables and then wait until all of the SS guards were present in the leader's home and then go against them. There were 250 men who were supposed to have participated at that time and there would have been more so as soon as we had succeeded. Then we would have picked up foreign generals in the camp to aid us. The date was Monday, the 16th. We

(Rinnthal - Direct)

were to raid the guardhouses and then sound the airraid alarm so that the lights would be turned off, and when those 83 guards would have to fall out of their barracks upon the sounding of the airraid alarm, they would have received fire from us. I was supposed to be the runner. Had we succeeded, we would have gotten hold of some kind of a car and driven over to the American armies to get aid from them.

PRESIDENT: The court will take a half-hour recess.

(thereupon the court recessed at 1500 hours.)

(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

MR. SEUTIN: If it please the court, may the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Col. Denson, who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Col. Wilson, Major Dodin, Mr. Fall and Dr. Becker, who are absent on business of the accused, all of the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital and whose interests are being taken care of by their respective counsels, and Krueber who is conferring with counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave.

PRESIDENT: Continuation of direct, Mr. McKay.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q Ginsdael, you said you left Flossenburg on the 16th of April, 194_. How did you leave Flossenburg?

A I must mention here that in this night between Sunday and Monday we had a false alarm. I was in a village at the time and Sauckler met me and he said "Are you one of the camp police?" I said yes. And he said: "You will have to go back to the camp immediately. They are probably giving out weapons in the weapon room." I went back into

the camp and I saw about 300 men standing in front of the ordnance room. About 12 to 15 men were allowed in, but it lasted so long that I went away again and I went into the village to a girl and I stayed until 5 o'clock in the morning. And then I did not want to go back to the main gate into the camp again so I went the back way by the potato bins and then I went back to my block and the prisoners asked me: "Don't you have a gun? You belong to the camp police." And I said I didn't have a gun and then a civilian, a non-commissioner officer of the service, came up to me when we fell in and said "Why don't you have a gun?" And I said "I cannot have a gun because I only have one arm," and he said "That is all the same, the guns have to be taken along and even though you have one arm you have got to take one with you." He took me down into the ordnance room with him and he gave me a long pistol like this (indicating the length of the pistol.) And I said "I cannot use this thing at all. That is worse than a rifle." And he said "O.K. That is all the same, take a rifle with you. All the rifles have to be taken out of the ordnance room."

I got a rifle -- it was a small one -- and later on I found out it was supposed to be an Italian rifle, and I said: "What about cartridges? I can't shoot anyway." Then he said: "When they check you will have to have your cartridges with you." There were not any cartridges available there and I got 6 bullets from another prisoner. They were pointed bullets and I put the bullets into my cartridge belt and then I put my rifle back into the room and I did not pay attention to it any more. Then I went down and I heard that cigarettes were going to be

given out. I saw a mob of SS men standing around there in the square and I asked what was the matter and they said a transport was leaving. They were former prisoners. One of them was called Brunner, Arno. He said a transport was leaving for Dachau and he said it would be good to try to sneak into it, that is the best opportunity to get away. I knew a certain Hermann Dalke and he was standing there and I said to him: 'Gustave, if you have a chance you had better go along.' And he said to me: 'Are you going too?' And I said: 'Yes, I am going.' Then I went over and got my cigarettes and I tried to find out what the transport consisted of so that I could wait for my chance and get away with it, because you never know what would happen in the camp when the Americans arrived. Then other prisoners came -- a certain man, I have forgotten his name -- and he said it would be better for us to get away now or otherwise the Poles and Russians will kill us. Then I saw a crowd of men standing there. I went over to find out what was going on and there was a non-commissioned officer of the service there.

MR. MAY: Speak a little louder.

THE ACCUSED (continuing): He said: 'What are you doing?' and I said: 'I am going along.' There are about 200 guards standing there, and then there was an officer there who was supposed to be giving instructions to the guards. I was standing at the right side of a block house and they were standing over at the other side. I heard that the transport was going by train to Dachau, and there was an order given that there would be no shooting on the way. If a prisoner could not march or fell down for any reason the prisoners

who were marching with him were told to give the prisoner over to the community or the mayor of the town and ask him to provide him with food. If a prisoner escapes, well then he has just escaped, and he will be caught sooner or later anyway by the emergency militia. And he said: 'The main thing for us is to reach Dachau.'

I went away then, I went into the cellar of the canteen and scrounged up a few bubbles of champagne and went along.

Just a second, I have got to mention something here. Just before we went away a captain of the SS, Knoblo, saw us and said: 'Have you all got rifles?' We said: 'Yes, captain.' And then there was a non-commissioned officer there who told us to load our rifles and get them ready. I don't know exactly what he said. I asked aprisoner what he was talking about and he said: 'You have to load bullets into your rifle.' I took the six bullets out of my pocket and gave them to him and he loaded them into the rifle. He fumbled around with the bullets in the rifle and I saw he had put the bullets half way into the rifle. They were not completely in the clip, and he could not get them out either. Captain Knoble came over and said: 'What are you doing here?' Then the other prisoner said: 'I am loading his rifle for him.' And the captain said: 'And can't you do it?' And the prisoner said: 'The rifle does not function.' He took the rifle out of his hand, took a look at it and laughed and said: 'You are a puppet. You are not any soldier.' And he laughed at him.

I saw the transport leader, Mr. Berger. I went over to him and showed it to him. I went over to Mr. Berger and showed him the rifle and asked him about it and told him what Captain Knoble had said. He said: 'Why you dumb fellow. You can't

shoot anyway, why worry about the bullets getting into it?' He took the rifle in his hand, fumbled around with it and finally succeeded in getting the cartridges out. He gave the cartridges back to me and I put them in my pocket. He said to me: 'The camp police under my command are not going to get any orders like that 'You will have to load your rifle.' Especially you with your one arm. What do you expect to do with a rifle?' And I told him I had to take a rifle . because the rifles had to be taken out of the camp. Then he went away and he said if I had any trouble I should come to him. Then we marched down to the railroad station.

Q What was the date that you actually went down to the railroad station?

A The 16th of April, 1945.

Q How long were you with the transport?

A I stayed 8 days with the transport....no, not 8 days, 6 days.

Q What route did the transport follow?

A The transport followed the direction toward Weiden, the main stretch toward the Louisville Donau and the Schwarzenfeld, they were the main routes.

Q Did you actually go through Schwarzenfeld?

A No, just up to Schwarzenfeld.

Q Did you stop in Schwarzenfeld?

A We stopped when we arrived in Schwarzenfeld and then I got out. I went to Major Berger and I asked him whether I could not go into the village and get myself some coffee because it was so cold, and he said: 'O.K.' I went away. I stayed away until 4 o'clock. I stayed away from the train about 1,000

or 1500 meters up until four o'clock. I learned to know a woman who came from the same region I did who had got lost, and I stayed with her. At 4 o'clock I came back. I met an SS man who had come out of the village and he said that the transport would be leaving in the evening around 8:30 or 9:00. He did not know exactly, because Major Berger had not given him the exact order yet, and then in order to be safe I went around the village and went into an inn. I just got there in time, because the SS men were standing all around. Major Berger had said we cannot go on any more because of strafing conditions. He said we would have to march on foot from there on, and the prisoners who fell down or who were too sick to march would be given over to the community and they would have to feed them and take care of them and they should be given over to the mayor or police of the villages. That was the last order we heard and then in the evening we marched on.

Q During the time you were in Schwarzenfeld will you explain to the court what shootings occurred?

A I did not see any shootings in Schwarzenfeld. I did not observe any because I was away from the transport. I was away from the transport two or three hours and I saw the strafing attacks constantly coming down at the train, and in the evening I came back to the transport. From the spot where I was standing I could about estimate what they were attacking, and I found out later that their target was the transport train. It was attacked at least 10, 12 or 14 times, and I saw that as soon as one squadron of strafers left another one would come. Then I came back across the meadow, and what happened then I don't know.

(Ginschel-Direct)

Q From Schwardenfeld whe e did you go?

A From this point on I must mention Captain Bäeblo took over the transport, this foot march. That started splitting up the transport, and I went to Major Berger then for the last time, and I said: 'Major Berger, I would like to go along.' He said: 'Go ahead. Go along and take your first chance at escape.' I came back and Bäeblo caught us and another prisoner, Bläeser, and he said: 'You have got to go along.' Then we marched for about 2-1/2 hours. It could have been 3 hours. Then we took a rest in a forest and we had wagons which we dragged along with us. We took blankets from them and the blankets were divided up among the people as long as they lasted.

Q Where did you march on this transport?

A I didn't march with the column at all. I went on ahead with a sergeant and we looked for quarters, then I came back and stayed at the rear and when we got back we found out we would not be able to reach the village any more and it was said that the prisoners were gradually getting tired. The sergeant asked them if they would like to take a break and they all said yes, and then the prisoners went into this forest next to a canyon. Well then, they stayed there until the next morning at 6 o'clock. At 6 o'clock in the morning the strafing flyers found us again and they flew back and forth over our heads. The sergeant said: 'It is getting dangerous here, we will take the prisoners deeper into the forest,' and we went deeper into the forest. It was around 6:30 and I went to this Roumanian sergeant and asked if I could not go into the village. At 6:30 I went into the village with Herbert Bläeser and stayed in the village, hid out there until 9 o'clock in the evening.

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I stayed in the village the whole day because a wound which I had received in Flossenbürg began to become purulent with pus-in it. I went to a military doctor there in the village. This doctor asked me where I belonged and I said: 'I don't know, really, where I belong.' He said: 'You must belong some place,' and I said: 'Yes, I belong to this transport, the transport which is quartered in the forest in front of the village.' He asked me what kind of a color insignia I had on my arm. I said I was a former prisoner. I asked him to give me a certificate so that I could get into a hospital. He gave a Red Cross nurse an order, she bandaged me and wrote out a certificate which was valid for the hospital in Nuremberg. Then I stayed there until 9 o'clock in the evening. I heard that there was beer in the village, so I went on to a tavern and bought some beer. After I had been in there I heard a trampling outside and I looked and there I saw the transport coming up. As luck would have it this sergeant came then and saw me. He reproached me because I had said I would come back in one hour and now it was already 9 o'clock in the evening. I showed him my certificate and he said: 'O.K. That is all right.' Then I asked him whether I could not go to the hospital as quickly as possible. but I still had to go along.

I went along about 50 metres and I pretended I was very tired. Just at that moment an automobile came driving by and I asked whether I could not drive with the automobile to Nuremberg. I must mention here that in Schwarzenfeld the prisoners who were not strong enough and were too weak were told to stay in Schwarzenfeld in the forest and they would

come later in the automobile and pick up such people. This automobile was an auto with people like this. I got in and drove with them to Nuernberg. I arrived in Nuernberg and then Captain Epeblo discovered me again. He said I would have to drive back immediately and pick up another automobile with prisoners from Schwarzenfeld. I showed him my certificate and he said: 'It isn't so bad. You will be coming back right away.' The chauffeur did not have any desire to drive any more either, because it was dangerous with the flyers attacking from the air.

Q Where did you end up from the transport?

A I came back from Nuernberg and took off. It was either 10 or 11 o'clock Saturday evening.

Q Now, Ginschel, what was the nationality of the prisoners on this transport?

A Poles, a few Germans were there, I believe a few Hungarians.

Q Was there any particular significance about this transport?

A They were Jews.

Q During the time that you were on this transport as a guard will you explain to the court what, if anything, you did with your weapon?

A With the weapon?

Q Yes.

A Nothing.

Q How long after you left the transport were you free before you were arrested again?

A Six weeks.

Q Have you been in custody ever since?

A Yes, since the 28th of May of last year.

Q How long have you been here in Dachau?

A Since the 23rd of December last year I have been in Dachau.

Q Ginschel, you testified that you worked in the quarry for about 3 days with Jakubith?

A Yes, sir.

Q Did you have an opportunity at that time to observe how Jakubith treated prisoners?

A I would like to make an explanation. After I had been taken out of Department 2004 I was sent over to the quarry for duty. In the morning we marched off to work and then the little fellow 'Pipi' came up and said: "The new arrivals will have to fall out." We new arrivals fell out, and he said: "Who of you is sick?" I said: "I am sick," and there were 6 or 7 others who fell out who were sick or at least felt sick. He sent the others to work and said: "You will have to keep your patience. In the evening around 9 o'clock you will be sent to the doctor." There was a crane in the quarry and the other prisoners who were sick he sent them over there to the little shack near to the crane. They placed themselves next to the stove.

Q What was the nationality of these sick prisoners?

A There was a Pole and a Russian, two Frenchmen and I. I believe the other one or two must have been Czechs.

Q Did you see what happened to them?

A Yes. Jakubith came in and said: "Get up on your feet. We are going to the hospital." He took me and the other six men and we went to the hospital. When we arrived in the hospital he said to the male nurse: "Where is the doctor? I have got some sick men here. We just came out of the quarry and I want you to take a look at them and find out what is wrong with them."

And the prisoners who were in the hospital then naturally exaggerated their illnesses and made it worse than it was really. He said: 'Keep them here, I am going back out again.' The clerk of the hospital -- it was not Goplts at that time, there was a different one, it was a small Pole at that time -- he wrote down our names and I believe they went to the convalescent ward and nothing else happened to me. I went out too. I did not do anything for three days, I just poked around in the quarry. I did go into one hole or another and I just drifted around. Piplel came to me and said: 'You cannot do any work here as it is, so I will talk to First Lieutenant Schubert about you and see to it that you get out of the quarry and get back into the camp.' And he said: 'In order to keep you out of trouble keep out of the way, because he is always sniffing around. I will give you temporarily to the transport detail.'

I stayed with the transport detail around 5 days, then Capo Dellneier came to me and said: 'You are supposed to go to Jakubith.' Jakubith said: 'Come along with me.' I was standing on the street shortly just before the quarry. Just at that moment First Lieutenant Schubert came along and Jakubith said to him: 'Lieutenant Schubert, this man is an invalid and he cannot do any work.' The lieutenant said: 'Well, how long has he been here?' Jakubith said: 'Three days.' And he said: 'I will see to it immediately that he gets out of the quarry.' Then it was around the 20th of May that I got out of the quarry, 1944.

I also knew Jakubith earlier when he was in the hospital in the convalescent ward. He was in the convalescent station 16, that was in February, 1944. He was near the entrance to the convelescent ward to the hospital and I saw foreign prisoners coming

to him. I saw them bring him potatoes. They brought him beer. They were Russians and Poles, there were also Czechs among them and they also said he should get better as quickly as possible. Then I saw him in the quarry once when he was giving out food. The pots were sitting over there and the prisoners lined up near the kettles and he gave out food. After the food had been given out there was something left over from the food. He had a list of the names of the prisoners, the numbers, and he gave this list to the foreman who was standing there and he had the prisoners called out by number to come up and get the extra food. There was a Russian there. Jakubith looked at him. The Russian said to Jakubith in Russian: "I am back here, varich." That means in German "Old friend, I am back again." And Jakubith said: "Where are you working?" He said: "I am back in my old place at work, the other work did not please me and I wanted to get back and work with you again."

Then in those three days I saw him go up to the clerk's office once and scrounge up some extra food for the people. He said he was going to give this food to them extra besides their rations and he gave it to those people who had to work out of doors in inclement weather, and he also gave it to the drillers.

Q Do you know where Jakubith is now?

A Jakubith is here.

Q Point him out.

A Witness 21.

MR. McKAY: Let the record show that the witness has identified the accused No. 21 as Jakubith.

Q In what block did you live while you were in Flossenburg?

A First I stayed in 21, then 20, then 3, 1, 19, 16 and then I came to block 6.

Q How long did you remain in Block 6?

A I stayed in Block 6 either 5 or 6 months.

Q During the time that you lived in Block 6 did you ever know a man by the name of Retzlaff?

A Yes.

Q Did you observe how Retzlaff treated the prisoners in the block?

A Well -------

Q Would you describe just what you saw with regard to Retzlaff's treatment of prisoners in Block 6?

A I often spoke with Retzlaff when I came back from work. I saw him carrying on conversations with prisoners. When anyone had a request which he could not take care of himself he would always go to Retzlaff with it and ask him for help. Retzlaff was quartered in B wing.

Q What wing were you quartered in?

A I often went over to him. I was quartered in wing A.

Q What was the nationality of these prisoners that would come up and ask Retzlaff to help them?

A They were about all nationalities which went to him -- Russians, Poles, Czechs, Frenchmen and also Belgians went to him. He thought also for the people who could not write German, and whenever anyone had a quarrel they would go to him and he would settle the quarrel. He also worked in the dormitory. People were stealing each other's blankets and he saw to it that the blankets got back to the place where they belonged. Retzlaff would receive packages -- I am only testifying about what I saw myself -- and he would give out these packages. In block 6 he would also come over to our wing A where he had acquaintances and he would come over and give out bread, cheese, and whatever

he had. He said: "You poor devils, you are just as bad off as anyone else. Come here, I will give you something." And in the free time Retzlaff would sit around with Poles and Russians and learn their language and they all liked him. The Russians call him Father Fludoling. Then I know that Retzlaff wrote either his uncle or his brother -- I am not sure which -- and said that he had a Russian there who did not have any home any more and that the uncle or brother should send the Russian something also. And as it finally turned out the Russian got more packages than Retzlaff himself. He always helped any man who was in trouble. He did not seek any personal advantages for himself; on the contrary this man as I knew him in block 6 always had pity and commiseration for everyone in the block.

Q Do you know where Retzlaff is now?

A He is also here.

Q Will you point him out to me?

A No. 37.

MR. McKAY: Let the record show that the witness has identified the accused No. 37 as Retzlaff.

Q Did you ever know a man by the name of Hauser while you were in Flossenburg?

A Hauser? Yes, sir.

Q Where did you know him?

A I knew him in the hospital. I believe that was also in February, 1944. He was occupying the bed next to mine. He was sick. I don't know what he had. He often had trouble with this Fritz Saaland. He was the male nurse at the time in the ward. He had trouble with him because at that time in the hospital the food was good. You could eat

your fill, and when the noon meal arrived he would take four or five bowls of food and hide them under the locker and then in the evening the people who worked with him would come with their eating utensils and pick up the food and they said to him: 'Why don't you get out of the hospital? It isn't good any more without you. It is not as good as it used to be.'

Q What was the nationality of the prisoners who used to visit Hauser in the hospital?

A I can remember once there was a Frenchman and a Czech, a Pole, and I also remember Russians there. Every day someone else would come to him. They were all the people who worked in his detail and came to visit him. Otherwise I knew of Hauser at the camp as a quiet man. I cannot say anything bad about him.

Q Do you know where Hauser is now?

A Hauser is here.

Q Point him out.

A Number 18.

MR. McKAY: Let the record show that the witness has identified the accused wearing No. 18 as Hauser.

Q During the time that you were in Flossenburg did you ever know a man by the name of Hoinisch?

A I only knew Hoinisch slightly. He often came. Once in awhile he would come to Block 1 to us to eat. I asked him where he came from and he said 'Upper Silesia.' He carried on a conversation. I asked him whether he was starved and whether he was coming over here to scrounge up food because he was hungry. He said yes. 'I cannot scrounge up bread like the others,' he said, 'I am not that kind of a guy.' Otherwise I knew that he was considered a quiet man in the camp. I don't know much about it. I know that he came to eat with us once. I saw him once

in Block 4. I don't know what wing it was -- whether it was Wing B or Wing A. I was coming up from Block 1. I went to Block 4 and saw him there. I spoke to him and I asked him what he was doing here and he said: "I came over to visit the comrade." He was sitting there reading a book. Other than that I never saw much of Hoinisch.

Q Do you know where Hoinisch is now?

A Hoinisch is here also.

Q Will you point him out?

A Number 20.

MR. McKAY: Let the record show that he has identified the accused wearing Number 20 as Hoinisch.

Q Did you ever learn what Jakubith's reputation was in the camp with regard to the treatment of prisoners?

A When I was in the camp I never heard anything about Jakubith which corresponded to what I have heard about him here. When I got to Flossenburg people told me about the quarry and they said it was supposed to be terrible in there. At that time the Capo's name was Rochel. He was just about as small as I but a little broader in the shoulders, and when I got there myself I was surprised that everything proceeded so quietly. Otherwise I did not hear anything about the man in the camp. It never crossed my attention.

Q Ginschel, during the time that you lived in Block 6 did you ever know of Retzlaff having any trouble with a Pole over a theft?

A Once I was up there and he told me that bread and beer had been stolen out of a package of his. He always got packages from home, good things, and he said that I could come over and pick something up for myself. The smoking material was short

and he always had something to smoke. There was a prisoner who sat here in this witness stand, Kleszmschowski, and that was the man in Block 6 who constantly ran through the lockers, checked over the lockers and stole the bread. I sure was amazed when I sat there in the dock and saw this man appear both as a prosecution and defense witness. I cannot understand that a man could come into a court room here and put the finger on somebody else when his own fingers were very dirty. I knew this man when he was in the quarry with Captain Niehoff. I knew him as an assistant capo. I saw him unloading coal there in Division 2004. I saw him treat his own fellow countrymen worse than anyone else.

PRESIDENT: Mr. McKay, just a minute. Has he mentioned this man's name yet?

MR. McKAY: Yes. Kleszmschowski.

PRESIDENT: Go ahead.

WITNESS: He was caught a few times after he had stolen rations away from his people. He was an assistant capo. He had taken away their rations and he would cut their bread portions short and kept it for himself, and later on when I was doing orderly service and saw this man with a snow plow I was amazed that a Pole treated his fellow countryman like that. He did not have any good name any more. Most of the prisoners would have nothing to do with him. I saw them unloading snow there by the blockhouse. One of them did not work fast enough and I saw him give him a blow and knock him down into the snow and give him a kick. The way you state it in German is that he was a good-for-nothing. He was a guy who liked to act big. He wanted to show that he was somebody. I went to him once and asked him how he could do such things, and he said: 'You are not the foreman. I am the foreman.' When we were

over there in the other court room he constantly annoyed us. He said: 'You bandits. You are going to be hanged anyway.' And I heard these remarks, and now this man appears as both prosecution and defense witness.

Q Mr. Ginschel, who took care of Hauser while he was in the hospital?

A Who took care of him?

Q Yes.

A He got the same food we all got in the hospital from Russland.

Q Now you stated that the camp eldest in this camp had driven prisoners away from you, had attacked you. Who was that?

A Will,

Q When was that?

A Middle of January, 1945, around them. And then later on again in March. He could see the crowd gathered around me outside and he came over.

Q Ginschel, is there anything else you want to tell this court about the charges that have been made against you by witnesses in this court room?

A Yes.

Q Explain that.

A I would like to first speak about the prosecution witness, Kurt Colts.

MR. BERKOWITZ: Just a moment. If it please the court I don't see the relevancy of this test. I don't recall whether Kurt Colts was the witness against this particular man or not. I object to any testimony being offered against the witness Colts by this defendant.

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MR. McKAY: If it please the court, Kurt Goltz was the first witness that testified against this man.

PRESIDENT: The objection of the prosecution is overruled.

WITNESS: Kurt Goltz appeared here and testified against me to the effect that in Block 1 when I was giving out food I hit a prisoner so bad that he had to be delivered into the hospital. I still maintain today that especially in front of Block 1 such an incident is impossible, for the simple reason that in Block 1 there were too many important personalities quartered who would have seen this incident. They would have had to have seen it. There were three prosecution witnesses here who appeared here -- all foreigners. A certain Hatzmatz, Brahaska and Kutschera and a Hungarian -- I have forgotten his name for the moment. These people certainly would have taken the opportunity to tell the court about any such incident in regard to me if they had ever seen it, because after all, a man who is hit always has a friend and he always tells it to his friend and in 20 or 30 minutes it would be the talk of the camp, and they would really have thrown me out of Block 1 fast.

I remember that Kurt Goltz once told me when I was still in Flossenburg: "You are going to get what is coming to you." When I was standing guard there at the entrance to the convalescent ward I often let in Kurt Goltz' "little darling," the boy with whom he slept, and he naturally scolded me because of that and got me fired from the night post. Other such incidents occurred, after which he scolded me and I always reported these incidents to Willie Ricketts and also to Mathoi, and he said: "I cannot help what goes on. You are an invalid and you cannot leave your position. You will have to stay there," and since that time on I was a zero with Kurt Goltz. I could not get along with him any more. When I was doing room

orderly service in Block 1, I would have to bring food daily to the Hungarian major general. They were brothers. These prisoners did not get the same food that we other prisoners in the camp got. At noon they did not get a special diet and in the evening I would have to go and get these people each a third of a loaf of white bread, butter and milk. I would go into the hospital in the evening to get these things then from Kurt Colts and always something would be missing; either I would get bread and milk or milk and butter, but always something would be missing. They would take a look at the food and then the Hungarian major general would lodge a complaint against me and I would say: "I can't do anything about it. Whenever I go to the hospital it is always missing," but I would find out that the kitchen always sent them hospital bread, milk and butter which was always available. I often used the expression: "I know where the food is, you eat the food and your boys," and from that time on Kurt Colts hated my guts.

I remember here when Kurt Colts was looking at this picture and said that in Flensenburg he had weighed 56 to 60 kilos. As far as I can remember Kurt Colts weighed at least 75 kilos in Flensenburg. I often saw this special diet myself when I went to the hospital. They had boiled potatoes and goulash and the sick prisoners also got this goulash with boiled potatoes. There was a Russian there at that time who gave out the food. The other one had left and I always saw him take 6 or 7 bowls of food into the clerk's office. Often there would be boiled potatoes with slices of boiled meat and very often the prisoners would only get the potatoes and some gravy. The meat would disappear. I was amazed when he had the nerve to say here that he

weighed so little in Flossenburg. He weighed considerably more than he did here. He was fatter than he was here.

PRESIDENT: The court will adjourn until 9 o'clock Monday morning.

(Whereupon at 1700 hours the court adjourned until 0900 hours 7 October, 1946.)

(Ginsehel-Direct)

CA/GI 13

First Duplicate Copy

Legal Form No. 16

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Pages 4645 - 4726 Incl.

OKDC

Case No. .....

*~~Convening~~

*~~Appointed by Military Governor~~

*General

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Place DACHAU, GERMANY

Date 7 October 194 6
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:
AUGUST GINSCHEL
CHRISTIAN EISBUSCH

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

7 October 1946 0900 - 1700 Hours Pages 4645 - 4726 Incl.

T E S T I M O N Y

WITNESSES:	Direct	Cross	Redirect	Recross	Court
AUGUST GINSCHEL	4645	4645 4663	4682 4691	4696	4684 4695
CHRISTIAN EISBUSCH	4698 4712				4720

Camp Dachau, Germany
7 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Major Oeding and Mr. Hall who are absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski and Oswalt, who are sick in the hospital, and Graeber, who is conferring with his counsel. The interests of the accused who are absent are being taken care of by their counsel.

If there are any spectators in the courtroom who are expecting to be called as witnesses, will they please leave the courtroom.

PRESIDENT: Continuation of direct examination Mr. McKay?

August Ginschel, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY MR. MCKAY:

Q Mr. Ginschel, have you completed what you wanted to tell the court when the court closed last Friday afternoon?

A Yes.

MR. McKAY: You may cross examine.

PRESIDENT: Cross examination, Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Ginschel, is it not a fact that prior to the time

of your conviction for issuing passports you were in a correction house?

A That was not a correction house, that was a childrens' home and a self protection camp.

Q Was it while you were trying to escape from a childrens' home that you were shot at?

A I was not in a childrens' home, that was in the self protection camp when I escaped.

Q And you were shot at when you tried to escape from the protection camp?

A Several times.

Q Now when you say you were at Flossenburg you received a blow on the head with a ladle?

A Whether that was a ladle I don't know, I was unconscious.

Q And as a result of that blow, how long were you unconscious, for how long a time?

A I cannot tell that myself either. I can only state that they told me I was unconscious for three hours.

Q And was that the result of that blow?

A Yes.

Q Now you made several charges against a witness who appeared named Goltz. Were you aware of the facts or matters that were testified to at the time he was on the stand?

A Yes.

Q You knew these facts at that time. Is that correct?

A I knew them before. I knew them in Flossenburg about him.

Q Now you have testified in favour of Jakubith and Jakubith has testified in your favour. Have you had a deal with Jakubith concerning this testimony?

A I didn't make any deal with him.

Q Did you have any discussion with him?

A I didn't talk to him.

Q Did you know he was going to testify in your favour?

A I was surprised when he did that.

Q And he didn't know you were going to testify in his favour?

A I don't know.

Q You didn't tell him?

A No.

Q Now I believe you testified on Friday and I would like to know if I am correct, that you issued food at block 1 only on two occasions, once in January 1945 and the second time in March 1945. Is that correct?

A I handed out food several times at block 1, but those cases I mentioned were the worst.

Q And I believe you testified that only on one occasion did you swing the metal ladle while you were distributing the soup?

A I didn't say that I swung because when I fell down I was surprised.

Q Then am I to understand you never did wield this ladle when you were distributing soup at block 1?

A Not to beat with.

Q On not a single occasion?

A No.

Q Now you tell us you joined the camp police in April 1945. Is that correct?

A Not April 1945. That could have been before that; that could have been the beginning of April.

Q On what date did you join the camp police?

A Approximately 28th or 29th February.

Q And you remained in the camp police until the 16th April when you left Flossenburg. Is that correct?

A Yes.

Q How many times during that period did you leave the camp?

A Two or three times.

Q And then you accompanied the transport as a guard and remained with the transport for seven days I believe you said?

A I was not a guard.

Q Well, what were you?

A I didn't know what I was myself, I just walked along.

Q Well, you wore a uniform, didn't you?

A Yes.

Q And you carried arms didn't you?

A Yes.

Q How long were you with a transport while you were in uniform and while you were carrying arms?

A To be correct, I must state that I was with the transport 12 to 40 hours. The rest of the time I was not with it. During the rest of the time I was gone.

Q 12 to 40 hours?

A 12 to 14 hours, not more.

Q And the rest of the time you were away from the camp?

A Yes.

Q How many times did you rejoin the column?

A Two or three times at the most.

Q You rejoined the column two or three times?

A Yes.

Q While you were in the camp you rejoined the police two or three times. Is that correct?

A In the camp I only joined them once.

Q What you mean is that you left the camp and came back two or three times?

A What I meant to say was that I went to the village two or three times. I had furlough.

Q And you came back two or three times?

A Yes.

Q I believe that you said something that the camp police was being trained by colonels. Is that correct?

A I didn't say that they were being trained by colonels.

Q What officer did train them?

A I don't know what officer trained them. I didn't know him. I didn't receive a training.

Q Well, didn't you state that an officer was training the camp police?

A That is correct, yes, but not me because I was not there.

Q Who was this officer training the camp police?

A I know the man by looking at him but I don't know his name.

Q What was his rank?

A I believe first sergeant.

Q Now, when did you join the column?

A What column?

Q The transport column?

A April 16 about 7 o'clock in the morning.

Q And where was this?

A In the camp.

Q Where did you go?

A We were standing around there for a while and then we went down to the station.

Q Now, you testified on Friday that the guards were ordered to give food to the prisoners, that they should not shoot anyone who could not walk, is that correct?

A The order about the shooting is correct but I didn't state that the guards had received orders that they were to issue food to the prisoners. There must have been a misunderstanding. I stated precisely that those prisoners who could not go on who were lying

on the ground were to be handed over to the various communities and that they should receive food from them.

Q Was that order given to you in Flossenburg before you left the camp?

A Yes.

Q And you marched to the station?

A Yes.

Q How far is this?

A It could be half an hours walk.

Q And what did you do at the railroad station?

A They were loaded on to the train. I was with the last 100.

Q Who gave that order at Flossenburg?

A For them to be loaded?

Q That those who could not continue the march were to be shot?

MR. McKAY: I object on the —

MR. HERKOWITZ: — I meant not to be shot?

A Major Berger.

Q He gave that order before you left the camp, is that correct?

A Yes.

Q Now, were there any other commissioned officers in charge of the transport?

A I didn't see any other officers.

Q You saw no officers during the whole period of the transport?

A When you said officer, I understood you to say that he had a higher rank. There was an obersturmfuehrer, a captain.

Q What was his name?

A Bohlo.

Q Were there any others?

A Sommerfeld. Those were the only ones I knew.

Q Would you recognize Sommerfeld?

A I can recognize Sommerfeld.

Q Look over the defendants and see if you recognize him?

MR. McKAY: I object to this as being improper cross examination. The witness on direct examination testified as to the transport and its command. It is improper cross examination to find out what officers were in that transport and who had charge of it.

PRESIDENT: I understand Mr. McKay, you are objecting to the last question.

MR. McKAY: The implication of the question. This is an attempt to get this witness to testify against another accused.

MR. BERKOWITZ: May it please the court -

PRESIDENT: Just a minute.

DR. WACKER: I also join the objection of my colleague here for the simple reason that no foundation has been laid as to whom the commander of the column was. If the prosecution would definitely clear this point as to the commander of the column, that is to say, that if the prosecution could find out that Sommerfeld was the commander of the column, then I withdrew my objection.

PRESIDENT: Anything further Mr. Berkowitz?

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q How many prisoners were in the transport column?

A According to my estimation, 1500 to 1600.

Q How many commissioned officers were in charge?

A As I said before, about three. I didn't see any more.

Q And who were the three?

(Wimschel - cross)

MR. McKAY: I object to the question as repetitious.

PRESIDENT: The objection of Mr. McKay is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q How many non-commissioned officers?

A I cannot state that exactly because I didn't pay any attention to those people. I was not interested in their ranks.

Q Well, did you see any non-commissioned officers?

A Perhaps I saw one or two but I cannot remember.

Q Do you remember the names of the ones you did see?

A No, I didn't know of any.

Q How many SS guards were there?

A 150 to 180. It could have been 200 also approximately.

Q Do you know the names of any of them?

A I cannot know any names because almost all these guards came from Buchenwald.

Q And how many camp police were with the transport?

A Ten.

Q Who were they?

A I only knew three or four by name.

Q Who were they?

A Dahlke; Oblock; Brumgner, Arno; Blaiesser; Jaeger. Those are the ones I know. I should like to state here that I did know others by looking at them but I didn't know their names.

Q Is Jaeger, Arno Jaeger?

MR. McKAY: The question is objected to as being irrelevant and immaterial.

MR. BERKOWITZ: May it please the court, this matter of the transport was developed in direct examination by the defense themselves and we have the right to know how many people were to accompany that transport and have them identified so that we can specifically use these people so as to rebut the testimony by the defense.

PRESIDENT: Mr. Berkowitz, you will have to be more explicit than that.

MR. BERKOWITZ: In my questions sir?

PRESIDENT: No, in your answer.

MR. BERKOWITZ: My question to the man was relative to one specific man who was mentioned by the witness as having been a guard with a transport on which he was. I am merely asking his first name for the purpose of establishing for the record who this man was, that in case he is produced here as a rebuttal witness there can be no doubt as to his identity. His first name is just as relevant as his family name.

MR. McKAY: Bringing in people who are not the accused in this case makes it irrelevant and immaterial to this case. If the prosecution have a rebuttal witness, they can establish their identity and location by their identity.

MR. BERKOWITZ: Based on the grounds that the first name is relevant, it is true we can bring them in.

PRESIDENT: The objection of Mr. McKay is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Now, were all the camp police armed?

A Yes, except two.

Q Who were the two?

A Obleak and Dahlke.

Q Were the SS guards armed?

A Yes.

Q Were the non-commissioned officers armed?

A I didn't pay any close attention. If I had paid attention I probably would have noticed it.

Q Now, what did you do at the railroad station at Flossenburg?

MR. McKAY: That is objected to as being repetitious.

MR. BERKOWITZ: All right, I will withdraw the question.

(Cimochal - cross)

QUESTIONS BY MR. BERKOWITZ:

Q How many cars were used for the transport?

A According to my estimation, it was a long train, 40 to 45. There were some really big cars there.

Q How many prisoners were put in the cars?

A There were about 80 in my car. It was a large car, and I cannot estimate how many were in the others.

Q How many SS guards were in your car?

A Three.

Q How many camp police were in your waggon?

A Two others and I.

Q Who were the two others in your car?

A Blaiesor, and I don't know the other men's names. I never saw them in the camp.

Q What time did you leave Flossenburg?

A Approximately 7.30.

Q How far did you go?

A We went by train.

Q How far did the train go?

A To Floss.

Q What happened at Floss?

A We had an air attack.

Q What did you do at Floss?

A When I noticed that the planes were coming, I took off. I reported to Major Burger in the station and he gave me permission to go away so I went to the woods.

Q How long did you remain in the woods?

A Until the train left again.

Q How many prisoners were shot at by the SS and by the guards at Floss?

(Ginsehel - cross)

A I don't know that, I didn't see anything.

Q How many cases did you see?

MR. McKAY: That is objected to as being repetitious. He just said he didn't know.

MR. BERKOWITZ: May it please the court, I have a right to cross examine and find out whether he knew or whether he did not know and have it clarified. The statement doesn't clarify whether he knows the number or whether he knows any were shot. The witness says he didn't see anything and I have a right to clarify this.

PRESIDENT: Reporter, read the question please.

(Whereupon the question was read by the reporter.)

PRESIDENT: The objection of Mr. McKay, the defense counsel is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q What didn't you see?

A That anyone was shot because I was not there.

Q How soon did you leave?

A The moment of the attack.

Q Where were you when the attack took place.

A When the first planes arrived I was still in the car.

Q How soon after that did you leave?

A When the first plane was overhead, I jumped out of the car. I went to Major Berger and asked to be released and he said "yes" and I took off.

Q Was Major Berger already in the station at that time?

A Yes.

Q Who else was in the station?

A Sommerfeld and a few others, they were mostly women and children who were with us at that time.

Q What did you tell Major Burger?

A I asked him if I could leave and he said "yes". For me to pay attention to the planes so that I would not be shot to death.

Q Did you tell him how long you would be gone?

A No.

Q Did you tell him any reason why you wanted to be gone?

A I din't have to give him any reason.

Q Answer my question?

A No.

Q Did anybody else ask for permission to take off?

A I don't know.

Q Was there anybody else in there at the same time you were in there asking for permission to take off?

A I cannot remember.

Q Did anybody go off with you?

A I was alone.

Q Well, did you see any shooting of prisoners before you took off?

MR. McKAY: The question is objected to as repetitious.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q How soon before the train left Floss did you return?

A I was almost too late, the train whistled and they were yelling "all aboard" and that was when I arrived.

Q Did you hear them yelling "all aboard"?

A I didn't hear that, but I heard the train whistle.

Q How far away from the train did you go?

A 7 to 800 meters.

Q How long did you remain away. Tell me the time?

MR. McKAY: The question is objected to as repetitious.

MR. HERKOWITZ: I don't think we have had any testimony in connection with the period of time in which he remained away.

PRESIDENT: Anything further Mr. McKay?

MR. McKAY: Nothing further, sir.

PRESIDENT: The objection of Mr. McKay is overruled.

A Perhaps 4½ to 5 hours.

Q And you remained within 7 or 800 meters during this 4½ to 5 hours.

A Yes.

Q Were you alone all this period of time.

A Yes.

Q What did you do during this period of time.

A I was lying on the ground in the woods.

Q Now during the period between the attack and the time the train left Flossenbuerg, did you hear any shots.

A No.

Q Now, isn't it a fact Ginschel that you yourself shot prisoners there at Flossenbuerg?

A I never did.

Q All right, where did the train go from Flossenbuerg?

A Direction of Weiden.

Q Did it stop at Weiden?

A A few minutes and then we left Weiden and remained on the tracks.

Q Did you remain on the tracks near Weiden for any period of time?

A Yes.

Q How long a period of time?

A I believe a day, one day.

(Ginschel - cross)

Q What did you do during that time?

A When the train remained at Weiden, that is past Weiden, I went to the village, there was a small village there.

Q How soon after the train stopped did you go to Weiden?

A The train was there for about five minutes.

Q And how soon before the train left did you return to it?

A Perhaps ten to fifteen minutes.

Q And did you ask permission to go to the town of Weiden or the village?

A Yes.

Q Who gave you that permission?

A Major Berger. He was the commandant.

Q He was in charge at that time?

A I don't know positively whether he was in charge, but I asked him because he was the highest ranking officer.

Q Did you tell him where you were going?

A Yes.

Q Did you give him any reason for going?

A I told him that I wanted to get some coffee and he said "all right".

Q Did you tell him how long you would be gone?

A He didn't ask me that. On the contrary he said I could stay away as long as I wanted to.

Q And you came back, is that correct?

A I didn't have any choice.

Q Were you alone.

A No, I was with Herbert Blaieser.

Q How far was the village from the place where the train was standing?

A 3 to 400 meters.

Q And you returned ten minutes before the train left?

A I arrived there.

Q Did anybody call you to return to the train?

A No one called me.

Q Now what happened to the prisoners while you were at Weiden?

A I didn't notice anything in Weiden.

Q What happened while the train was standing on the tracks in Weiden?

A Nothing happened.

Q How many prisoners did you see shot?

A I didn't see that any were shot.

Q Where did you go from Weiden?

A That station was past Weiden. In the evening we went back to Weiden and got food there for the prisoners.

Q How long did you remain in the station at Weiden?

A Until the next morning, until about 4 to 4.30.

Q What did you do during that time?

A During that time I was in Weiden I was in the restaurant in the station and then I took a walk with a girl in the woods and the prisoner Blaisser was always present.

Q Now, when you left the station at Weiden, did you again ask Major Burger's permission?

A I didn't get permission at that time. Major Burger said "why do you always come back to report, you don't even count as a member of the transport, you should be happy to run around like you are". He said "take advantage of the liberty you have right now, as long as you can do that", and I took advantage of it.

Q Where did he tell you that?

A At that spot before we left and went back to Weiden. I reported back to him when he told me that.

(Ginschel - cross)

Q And how long did you remain away while the train was standing at the station in Weiden?

A All night until the next morning.

Q And you came back?

A About ten minutes, but you could say about five minutes before.

Q Five minutes before what?

A I was in the restaurant there and someone came in and said the train is leaving, and I went there myself.

Q Who came for you?

A It was SS men and I asked them if they were from our transport and they said "yes". I asked when the train would leave, they said "right away" and I went with them there.

Q Do you know their names?

A I don't know their names.

Q Where did you go after you left Weiden?

A When the train left or before?

Q Where did the train go after it left Weiden?

A To Luhe Wildenau.

Q Did you stop there?

A Yes.

Q How long a time?

A Until 11 o'clock that night.

Q What time did you arrive there?

A About 6 or 6:30 in the morning.

Q And did you remain with the train during the time it was there?

A No.

Q How soon did you take off?

A The train hardly stopped when I jumped out and took off.

(Kimschal - cross)

Q And when did you return?

A I was gone until 11 o'clock that night.

Q How long before the train left did you return?

A Just about the time. I was just in time.

Q How far away did you go?

A In that time I had been around three villages.

Q Answer my question?

A How far? About 3 to 4 kilometers.

Q And you came back just in time to board the train before it left?

A Yes, because when the train started I was in the same village where it had stopped.

Q Did you ask Major Burger's permission this time?

A It just so happened, yes.

Q And what did he tell you.

A It just so happened when I met him at the station and I asked him if I could stay away a little longer that day and he said "yes". . . .

Q Did he tell you what time to come back?

A He said to be back in time when we are ready.

Q Did he tell you how far you could go?

A He didn't tell me.

Q Did you go alone?

A No, with Blaieser.

Q So Blaieser was with you each time except the time at Floss. Is that correct?

A Yes possibly, I cannot remember Blaieser in Floss

Q I think you testified this morning that in Floss you were alone and that during the other times Blaieser was elsewhere, is that correct?

MR. McKAY: I object to this as being argumentative in form.

MR. BERKOWITZ: May it please the court, I am trying to sum up what the witness has said for the purpose of my own clarification and for the purpose of advising the court how many times Blaieser was with him. I do not think the answer is quite clear.

MR. McKAY: I believe the court is fully competent to sum up this man's testimony itself without the aid of the prosecutor.

PRESIDENT: Mr. Berkowitz, you will have an opportunity of checking the records if necessary. The objection of Mr. McKay is sustained. The court will take an half hour recess.

(Whereupon the court recessed at 10.00 hours.)

TA 498 - 1 -
LDP
Moss
10/7/46
FLS

(Thereupon the court reconvened at 1030 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, let the record show that all personnel of the court are present, all personnel of the prosecution are present with the exception of Colonel Denson, on business of the prosecution, all personnel of defense are present with the exception of Major Oding and Mr. Hall who are absent on business of the accused. All of the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital, and whose interests are being taken care of by their counsel, and Graeber, who is conferring with his counsel. If there are any spectators in the court room who expect to be called as witnesses, they will please leave the court room.

Let the record show that Colonel Denson has returned to the court.

PRESIDENT: Continuation of cross examination.

(August Ginschel, an accused, resumed the stand and testified through an interpreter as follows)

CROSS EXAMINATION (cont'd)

QUESTIONS BY MR. BERKOWITZ: (cont'd)

Q How many prisoners did you see shot at Lake Wildenau?

A I didn't see anyone shot at Lake Wildenau.

Q Where did you go from Lake Wildenau?

A Into the village.

Q Where did the transport go from Lake Wildenau?

A To Schwarzenfeld, at 11:00 at night.

Q When did you arrive in Schwarzenfeld?

A Around 6:00 or 6:30.

Q A.M. or P.M?

A In the morning.

Q When did you leave Schwarzenfeld?

A I left immediately after the train stopped.

Q Did you ask permission from Major Berger?

A Yes.

Q What did he tell you?

A "Yes, you can go".

Q Did you go alone?

A Yes.

Q Where did you go?

A As soon as the train stopped in Schwarzenfeld, I went into some sort of quarters and Major Berger was there. I asked him if I could go and he said yes. I wanted to go into the village, and at the moment a number of people came along, in an automobile with baggage. I asked these people where they were coming from and they said they had been in a forrest because there was an air raid during the night. I found out that someone there spoke the same dialect that I did and I asked her where she came from and she said "from Gerlitz". We were fellow countrymen. She asked me what I was doing, and what kind of uniform I was wearing, and I said I was a former prisoner and had received a new uniform. At that time it was cold and I wanted to get something warm and I asked the woman if she wouldn't give me some coffee. I went home with this woman to the place where she was quartered temporarily because she was evacuated, and I stayed

there until 11:30. At 11:30 I went away and went over to the railroad. There was a small house there near the railroad and it was a cellar there, and I went into the cellar and stayed until 12:00 or 12:30. Then I went into the village and had lunch with a farmer and I stayed there until around 3:00 and then I started a conversation with people whom I met on the way and talked with them until 4:00, and then I walked around the town. It was around 4:30 when I got back to the tavern where I found Major Berger. That was where he was quartered. There soup was given out and I saw that various SS men had arrived from our transport and they were gathered around Major Berger. He gave the order that we would probably not be able to continue the transport because of strafing attacks. We would probably have to march on, on foot, he said, and that the march would probably start again at 8:00 or 8:30 at night. We were going to have a forced march and we would only take those prisoners along who could keep up the pace, and for the weaker prisoners, who couldn't keep up the pace, he would provide automobiles and put them in them and take them along. In case so one did get weak on the way and couldn't continue the pace, he would immediately be given over to the community and they would be asked to provide for him. They would have to give him food and if they couldn't take care of him, they would have to turn him over to the police. That was all that Major Berger said. Since then I never saw Berger afterwards.

Q What did you do after that?

A After that I went back into the village and I stayed there until just before 8:30. I went up along the street and I

saw the prisoners gathering there. I went over to the people and a Sergeant of the SS asked me where I was coming from .I said from the village, and he said, "You go along with us". There was another Sergeant there and he went around picking up people whom he presumed wouldn't be able to keep up the pace in the march and he took the people into his automobile. After that happened, I marched off along with the first 200 prisoners.

Q Now while you were at Schwarzenfeld, how many prisoners did you see shot by the SS or the other guards?

A I didn't see any kind of shooting at all in Schwarzenfeld.

Q As a matter of fact, you took part in the shooting in Schwarzenfeld, didn't you?

A I personally didn't take part in any shooting in Schwarzenfeld because I wasn't there at all.

Q Where did you take part in the shooting?

A I wasn't present at any shooting.

Q No part of the march or no part of the transport did you take part in any shooting?

A I don't see how I could have done that. I must emphasise again and again I never shot anyone to death.

Q What was the name of this woman?

A I don't know the name.

Q Do you know her first name?

A I don't know.

Q Who was the Sergeant who told you to rejoin the group?

A It was a Roumanian.

Q Do you know his name?

A I never found out his name.

Q Now you got off the train immediately upon its arrival at Schwarzenfeld and you went to these quarters and Major Berger was already there, is that correct?

MR. MCKAY: The question is objected to as being repetitious.

MR. HERTOWITZ: If it please the court, the witness testified that he spoke to Major Berger in the end. He didn't say that he was already there or had to wait for him. I wish to clarify the point.

PRESIDENT: The objection is sustained.

Q Now how many automobiles were provided for the weak prisoners?

A I can't tell you that because I wasn't there when the wagons were being loaded.

Q Did you see any of them?

A Not then when I marched away, but later on.

Q How many did you see?

A The ones I saw later?

Q Yes.

A There were around six cars there.

Q What kind of cars were they?

A Big trucks.

Q How many prisoners were in each truck?

A Perhaps thirty prisoners.

Q How many prisoners were chosen at Schwarzenfeld to continue the march on foot?

A I couldn't find out how they were picked out later on because I marched away with the first 200.

(Cross-Ginschel)

Q Who was in charge of these first 200 men?

A It was a Master Sergeant, an ordinary Sergeant, and guards.

Q Who was the Master Sergeant?

A I would like to tell the court that I had never seen the people before in my life. Only when I came together with them. I would have known the name if it had been an SS man in Flossenburg.

Q You say you got to know them at this time? Who were they?

A I never found out their names.

Q Who was the commissioned officer in charge?

MR. MCKAY: The question is objected to as being argumentative in form. The previous answer was non-commissioned officer.

PRESIDENT: The objection is overruled.

A I didn't see any officer with these 200 men there either when the people were being selected.

Q Did you see any officer with the entire column after you left Schwarzenfeld?

A Not directly in the column but later on when we came into Neumburg.

Q Who was the commissioned officer at Neumburg.

A Captain Beble.

Q Anyone else?

A It was dark and I couldn't see anyone else. I only recognize him because I had seen him earlier in Flossenburg.

(Cross-Ginsbel)

Q What did you do after you left Schwarzenfeld?

A We marched on for about three hours. I walked on ahead about five meters with the Sergeant and we picked out a place where the prisoners could rest in case they got tired.

Q Was this the Sergeant that you do not remember the name of?

A Yes.

Q Now going back a minute, when Major Berger gave the order that no prisoners were to be shot, was that the second time this order was given?

A He said that for the second time.

Q This order was the same as the first one that no weak prisoners who were unable to continue to march were to be shot?

A Yes.

Q How long did you remain in the woods at this place that you selected?

A We stayed there from approximately 12:00 until 5:30 or 6:00 in the morning.

Q Now on your march from Schwarzenfeld to this place in the woods, how many prisoners were shot?

A I didn't see any prisoners shot.

Q Did you hear any shots?

A No.

Q Did you hear about any shots?

A I asked about it in the night.

Q Whom did you ask?

(Cross-Ginschel)

A I didn't ask about it.

Q Didn't you say a moment ago you asked about it in the night?

PRESIDENT: Just a minute, Dr. Wacker.

DR. WACKER: If there is truth here about night, there must have been an error in the translation. He said he didn't ask anyone.

MR. BERKOWITZ: Reporter, will you read that question again?

(Whereupon the reporter repeated the question)

PRESIDENT: The court will take a short recess in place)

(Whereupon the court recessed in place at 1050 hours)

(Whereupon the court reconvened at 1055 hours.)

PRESIDENT: Reporter, repeat that particular question and the answer again.

(Whereupon the reporter repeated the last question and answer).

MR. MCKAY: There is some question by the defense as to the interpretation.

INTERPRETER: I said, "I asked about it in the night". I should have said "I didn't ask anyone about it in the night".

PRESIDENT: That straightens the matter up as far as the defense is concerned?

MR. MCKAY: Yes.

PRESIDENT: Continue Mr. Berkowitz.

QUESTIONS BY MR. BERKOWITZ (cont'd)

Q May I ask you these questions again please. Did you hear about any shots?

(resa-Hinschel)

A No.

Q Now where did you go from this place in the woods?

A I went away at 6:00 in the morning into the village Fuhrn.

Q What did you do there?

A I stayed in Fuhrn until 9:00 in the evening. I stayed there with a farmer.

Q And whose permission did you ask to go there?

A I asked the Sergeant who was there whether I could go into the village and get some coffee and come right back, but I didn't come right back.

Q Then when did you rejoin the column?

A I will have to make an explanation to the court about that. When I went back into the village, I went to this farmer. He took care of me and gave me some food. When I went away into the village in the morning, I had the intention of never coming back to the column again. In case they did call me to account for why I stayed away so long, I figured out an excuse. Earlier in Flossenburg I received a wound on the right rib. I found out that there was a hospital for reserves in this village. I had a boil on this wounded rib because of friction between it and the belt. I reported this to the chief doctor there in the reserve hospital. He asked me where I came from and I said I had been a former prisoner and for the time being I was a member of the camp police. He asked me what was eating me. I told him about my wound and he took a look at it and said, "With this wound it is impossible for you to continue marching". I asked him to give me a certificate stating that I had been with him, which he did. He wrote out a certificate and he noted in the certificate that

as soon as we reached Neumburg they should take me to a hospital. Then I went back to the farmer and stayed with him until in the evening at 6:00 or 8:30. I found out that there was something to drink in the tavern and I went over there. After I had been in there for a half hour, various SS men came in and among them was this Sergeant. This Sergeant immediately called me to account. He scolded me. I showed him the certificate and he believed me. Then since I couldn't go on with the column any more -- he said, "Since you can't go on with the column any more, take the lead off your feet and see what happens". I went about 200 meters with this column with the transport and then an automobile came. I saw it coming from a distance. I pointed it out to the Sergeant that this automobile was coming and I asked him whether I couldn't ride along in there. He approved this request of mine and we stopped the automobile. I got in and we drove off toward Neumburg. It was around 11:30 when we arrived in Neumburg.

Q Now hadn't you been previously dropped from the rolls of the transport?

A My name?

Q Didn't you testify that Major Berger said your name had been dropped from the rolls of the transport? Did you or did you not say that this morning?

A What I meant to say about that was that my name wasn't actually stricken but that he gave me to understand that I didn't have any orders, that I wasn't an active soldier, and that I didn't belong there.

Q Now did you have this wound when you were at Flossenburg?

A No.

Q Where did you get this wound?

MR. MCKAY: The question is objected to as being repetitious.

MR. BERKOWITZ: If it please the court, there is a contradiction in the witness's testimony. He stated at one time he got the wound in Flossenburg while a member of the camp, and now he says he didn't get it at Flossenburg, and I would like to have a statement of it.

PRESIDENT: Objection is overruled.

A I had the wound for erly in Flossenburg but this wound was festered up again later.

Q Did you tell the Sergeant that Major Berger told you that you didn't have any duties to perform and that you could come and go as you wanted?

A That is right.

Q How long did you remain in Neunburg?

A At the most, a quarter of an hour.

Q Did you see any of the transport there?

A I didn't see any transport any more in Neunburg. I only saw the prisoners who came along in the automobile.

Q Well, did you see Beblo in Neunburg?

A Beblo discovered me there. He said, "What are you doing here?", and I said, "I am going to the hospital". I showed him the certificate and he said "Oh, it isn't so bad". You have to drive back to Schwarzenfeld immediately. I insisted that he send me to the hospital and he refused.

Q Where were you when Beblo discovered you?

A That was just before you reach where there is a little

forest. There was an open square there between these trees.

Q Who was with Beblo?

A It was dark at that time and I couldn't see who was with him.

Q Well, how did he discover you?

A He was waiting for the automobile and he said, "I need another guard, now I have one". He said "You can't do anything anyway. It would be good if you did drive back to Schwarzenfeld with the soldier". Whether he knew it or not, I don't know, but the chauffeur must have made a remark that he didn't want to go back to Schwarzenfeld. He gave the chauffeur the order to drive back and told me I should go along. We drove back to Schwarzenfeld, and we arrived there at approximately 3:00. Under way we had to constantly stop because there were airplanes circling around. When we arrived, we got out and there wasn't anybody there. The doors of the railroad cars were about this wide open (indicating). There were about 150 prisoners there all told.

Q Now when Beblo saw you, he wanted to use you as another guard, is that correct?

A I didn't say that.

Q Didn't you say a moment ago that Beblo needed you as another guard?

A Well, just at that moment he didn't see that I only had one arm.

Q He saw your uniform, is that right?

A Yes.

Q Did he mistake you for a prisoner?

MR. MCKAY: That is objected to as being argumentative in form.

MR. BERKOWITZ: I am not arguing with the witness; I am asking him to clarify a point to which he has testified.

PRESIDENT: Objection overruled.

A I came out of the car and I wanted to go away. He said, "Stop him. Someone is running away there". He said, "What is the matter with you?" I said, "Nothing at all, I want to go to the hospital". He said anyone can say that. Who are you anyway. And I said, "I am a prisoner with the camp police". Then he said that to me.

Q Said what?

A He said, "I need a guard, he can be helpful to me. I want him to drive along to Schwarzenfeld with the other one".

Q Now between Neumburg and Schwarzenfeld, when you went back, did you see any of the prisoners?

A I saw about eighty prisoners. They were on a truck. There was a tractor there with a trailer. They were the only ones I met on the way.

Q Did you see any corpses on the road?

A It was too dark to see anything.

Q Did you see any corpses at Schwarzenfeld?

A Yes I did.

Q What did you do after you got to Schwarzenfeld?

A I stood there next to the railroad cars and since there wasn't anybody there, the chauffeur said "we will drive home". Since it was rather quiet in the city because of air attacks, I went to the woman's home that I previously mentioned. I stayed there until approximately 10:00 or 10:30 in the morning. Then I left the woman and the First Sergeant saw me and asked me what I was doing there, and I said, "I came with an automobile last night", and that we arrived there at 5:00 in the morning. He asked if I had any plans and I said yes, I wanted to go into

the village, and he said he needed people who could help him out. I said "Well, what do you expect me to do?" He said "you don't have to do anything; all you have to do is take prisoners with you. There is another sergeant there. We have around 60 to 80 prisoners who were damaged by the strafing attacks". The prisoners were supposed to enlarge a grave they had started digging the other day. I went over with these prisoners, with these ten men. The prisoners had been working for about one hour when a strafing attack started. There were weapons for ten men, the sergeant and I, and when we sought shelter, suddenly five of the prisoners who had been with us disappeared. I didn't notice that until the strafing attack was finished. I didn't know what I should do because I was afraid I would get punished for it. I thought well at least if only the capo were here but he was gone also , and to be specific, it was the one who was here on the witness stand. It was a Polish Jew who had come from Buchenwald and he had his capo insignia on his arm. I didn't know what to do and it just happened that I went in back of the power house. There he was standing. I said to him, "How can you do a thing like that?" I told him he better stay there, and escape later on. I went around and picked up five prisoners from the other group that was there. There were prisoners cooking potatoes and I merely took five prisoners with me. I took the five over to dig the grave and then I took them with me and reported them back again. When I went back, I asked the sergeant what I could do and he said I could shove off then. I went back to Schwarzenfeld and learned to know a woman there, and it was a woman I had learned to know when I had marched through with these prisoners.

She had given these prisoners potatoes, bread and fruit. She said that I could eat lunch with her and I went over there to her. I stayed there until around 3:00 and then I went into the village to the brewery. There was an end attached to the brewery. Then I took another walk in Schwarzenfeld and it began to rain so I went back into the tavern and stayed there until around 7:30. At 7:30 I went back because the word was out that the last 100 men would be driven back by automobile to Neumburg. By the time I got back, six automobiles were already standing there and I drove off with the first automobile to Neumburg.

Q How which capo were you referring to as one of the five who disappeared?

A I saw him here. The one I saw here.

Q Which one do you mean?

A I merely recognized him again.

Q Do you remember his name?

A No.

Q And who did you report him to when you found him?

A I didn't report him to anyone.

Q You said you brought the prisoners back and reported to a non commissioned officer.

A Yes, I said to him, "Sergeant, here are your ten prisoners back again".

Q You brought back ten prisoners who had escaped?

MR. MCKAY: That is objected to as being argumentative because it is a misstatement of facts as previously stated in the witness' answers.

(Cross-Ginsche1)

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MR. BERKOVITZ: If it please the court, if it is a misstatement of fact, the witness can so state. The question is proper for the purpose of clarification in his testimony.

PRESIDENT: Reporter, repeat the question please.

(Whereupon the reporter repeated the question.)

PRESIDENT: Objection overruled.

A I had to take ten prisoners with me in order to dig this grave. Five of them escaped and in order to fill up these five again, I had to take five. I didn't go around in front but went around in back and took out five of the people who were there cooking potatoes. I took these five back to the others, and then took all ten of them back to the sergeant.

Q Were you armed at this time?

A Yes.

Q You say you learned to know this woman when you marched through with the colum. When was that?

A That was around 10:00 or 10:30 when I went over there to shovel this grave. Then these prisoners had been working on the grave the day before and they had learned to know this woman and they knew she would give them something and that was the way I knew her.

Q How did you at any time receive any orders from Beblo?

A Beblo never gave me any order except the one in the evening when he said I would have to drive back to Schwarzenfeld.

Q On the transport, did you see any prisoners who were too weak to continue to march and fell down to the ground?

A I was too little by the transport to see that and in the evening I wasn't there.

Q How many prisoners did you see shot on that transport?

MR. MCKAY: The question is objected to as it calls for an answer which would be repetitious.

PRESIDENT: The objection is sustained.

Q How many prisoners did you see shot on this transport from the time it left Flossenburg until the time you left the transport?

MR. MCKAY: The question is objected to because it calls for an answer which would be repetitious.

MR. BERKOWITZ: If it please the court, the previous testimony has been as to this particular part of the transport. I am now questioning him concerning the whole transport.

MR. MCKAY: For that reason it becomes repetitious.

PRESIDENT: The objection is overruled.

A I didn't see anyone at all during the transport. I would have to lie if I said I had seen it because I didn't see it.

Q Did you hear any shots during the whole transport?

MR. MCKAY: The question is objected to for the reason that it calls for an answer which would be repetitious.

MR. BERKOWITZ: I make the same reply.

PRESIDENT: Objection overruled.

A I didn't hear any shots at all except from the fliers who were diving down.

Q Did you hear about any prisoners being shot during the course of the whole transport by the SS or by any other guard?

MR. MCKAY: That question is also objected to for the reason that it calls for an answer that would be repetitious.

MR. BERKOWITZ: I make the same reply, sir.

(Cross-Ginschel)

PRESIDENT: Objection overruled.

A I never found out anything like that.

Q Now didn't you in the course of a previous interrogation state that you received an order from Beble that no prisoner should fall into the hands of the enemy.

MR. MCKAY: The question is objected to for the reason that proper foundation for impeachment has not yet been laid.

MR. BERKOWITZ: I withdrew the question.

Q Didn't you in the course of the interrogation by Col. Shaw here in Dachau state that you received an order from Beble that no prisoner should fall into the hands of the enemy and wasn't this made in the presence of Kenneth Henkel?

MR. MCKAY: The question is objected to for the reason that proper foundation for impeachment has not yet been laid.

PRESIDENT: Objection is sustained.

Q Were you interrogated by Col. Shaw in Dachau?

A Yes, I know exactly what I told Col. Shaw at that time and I would like to tell the court what I said then.

Q You answer my question.

A Yes, I was.

Q Were other persons present at the time of that interrogation?

A The girl who acts here as interpreter. She was there.

Q Was there an American soldier present at that time?

A There were two men there - altogether, three.

Q Was there an American soldier present with Col. Shaw at the time of that interrogation?

A Yes, two American soldiers.

Q How many times were you interrogated by Col. Shaw?

A I was only in there for three minutes and he threw me out.

Q Didn't you in the course of interrogation state that you received an order from Beblo that no prisoners should fall into the hands of the enemy?

A I never got as far as making this explanation because every time I started to say something, he said "answer my question".

Q Will you answer my question.

A I didn't make any explanation like that.

Q Didn't you in the course of that interrogation state that you saw prisoners fall to the ground that were too weak to go on?

A No. I said if I had seen anyone during the march who had become so weak-- if I had seen him lying there, I would have gone away, and he said to me, "I don't believe you; I should bring you to trial", and I said, "If you think it is necessary, it is all right with me".

Q Will you answer my question and tell me whether in the course of that interrogation you did or did not state that you saw prisoners fall down to the ground who were too weak to go on?

A No.

Q Will you tell me whether or not in the course of that interrogation you stated that you saw 300 men shot on that transport?

A I never said 300 prisoners. I estimated that in the whole transport there were 120 deaths.

Q Will you answer my question and tell me whether or not you said during the course of that interrogation you saw 800 prisoners shot on that transport?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect, Mr. McKay.

REDIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Ginschel, when did you actually join the camp police?

A March 28, 1945.

Q Were the other members of the camp police that you saw with you armed with the same type of weapon that you were?

A Yes. We weren't actually armed at all. None of us, because one would have a French rifle with German ammunition, and I myself had an Italian rifle with pointed bullets and I couldn't use them and I can't say anyone was actually well equipped.

Q Will you explain to the court why you testified for everyone that you have testified for on the stand?

A I was amazed when various prosecution witnesses came here and put their finger on the direct people who I knew in camp had never done anything for which they were accused. I stick to the saying that people who live in glass houses shouldn't throw stones, and I was sorry for these prisoners here in the dock who are being accused of things I never discovered in the camp. If anyone had committed a murder in the camp or had beaten anyone to death, they would have had to do it so that no one else would find out about it because it was impossible to kill anyone

in the camp without having everyone know about it.

Q What, if any, conversation did you have with any of the accused that you have testified for prior to the time you gave that testimony?

A The way I carried on my conversations was like this. You go your way and I'll go mine.

Q Will you explain to the court whether any of the testimony which you have given was ever requested by any of the men whom you testified for?

A. Nobody asked me. It was my duty to testify for these men because they had been besmurged with deeds they never did. I know these prisoners have suffered all these years and they are exposed now to these things and they can't defend themselves.

MR. MCKAY: That is all.

QUESTIONS BY DR. WACKER:

Q I am now going back to the incident at the railroad in Flossenburg. Where was Beblo and where was Sommerfeld at this time?

A In the railroad station.

Q Both of them?

A Yes.

Q Please describe Beblo - what he looked like.

A Beblo is short and squat. He scarcely has a hair left on his head.

Q About how old was Beblo.

A Around 45 or 46, I can't estimate it exactly.

Q How does his physical appearance compare with that of Sommerfeld?

(Redirect-Ginsohel)

A Sommerfeld has about the same appearance as Bablo. At first I thought the two were brothers.

DR. WACKER: Thank you.

PRESIDENT: Recross examination.

MR. BERKOWITZ: No further questions.

PRESIDENT: Any questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Glaschel, Bodet, a certain prosecution witness, gave testimony against you. Do you wish to make a statement to the court at the present time with reference to the testimony?

A Yes. I was quartered for about ten months long in Block 1 with Bodet. Bodet was the capo in the construction office and when he was in the block, he took over the duties of the block clerk on the side. Bodet was also in charge of the canteen. He had to distribute the wares which came from the canteen and ended up in the block. Twice I had trouble with Bodet. Bodet had received cigarettes for the people who were quartered in Block 1 but he didn't turn them over to these people. He kept part for himself and sold them back to the civil population. Since many people were afraid to complain to him, I went over with a registered complaint. He answered me, "that isn't nice of you to say something like that to me. The best thing you can do here is to keep your mouth shut, your eyes and ears open, nothing else, or else I can see that you are going to take a bad ending here in the camp". That was the first trouble I had with him. He was so mean in the year 1944, that for example, he acquired the addresses of four foreigners by promising them that he would write their relatives and ask for packages, in which there would be some schnapps and food. He said if it comes

through official channels into the camp, you will lose your schnapps anyway. They will take it out of the packages. But if it comes by way of me, you will get it. Various people had confidence in him and gave him their addresses. Around eight or fourteen days later, Bodet was lying alone in his dormitory and drinking a bottle of schnapps himself. He was a little inebriated when I came into the dormitory. He said, "what are you doing here?" I said, "I can go into the dormitory", and then he gave me a kick and said, "I think you are spying on me". Around eight days later the prisoners began asking him about the packages, were they going to arrive soon. And he said "I haven't got any answer yet". Later on, we found out that he had received at least two or three packages already. The people who worked with him in the construction office betrayed him. He was able to keep the packages because of his activities in the construction office. He could move around freely among the civilian employees. Many people threw this in his face but it didn't have any reaction with him.

Q Now, Ginschel, do you wish to tell the court anything with respect to the testimony that Bodet gave against you?

A Yes. Bodet maintains that I beat someone on the head with a bottle in front of the canteen so badly that he fell down. That is something impossible and that was something because I myself went and got beer for Bodet. Whenever I went into the canteen, I had a Russian with me. Whenever we got our wares, our beer, in the canteen, we would have it put into a box. The Russian would take one side of it and I would take the other. Bodet maintains that I had hit a person on the head with a bottle at that time and I said, "Look out, we are coming through". I

couldn't have done it because we had to plow through all of these people. The crowds of black market people were usually there. The Russian would speak to a fellow countryman in his dialect and tell them to clear the way so we could come through and the other people I would push back with my hand. With the one hand I would hold on to the box. I do not see how another arm could grow. How could I beat a man on the head with a bottle? I couldn't do it with one arm and with the other arm I was carrying the box. If I had done it in such a spot, if there were so many there, they would have beat me up and let me lie there. I assume it was merely a reprisal measure of Bodet, nothing else.

Q Now, Bodet further testified against you concerning distribution of soup. Do you wish to make any statement to the court relative to that incident?

A Yes, although I can't remember such an incident. I know that I was always finished with my job of giving out food when Bodet would come back from the canteen. He was the administrator of the canteen and he was also block eldest with us in Block 1 on the side. He came in, in a hurry, and I said, "What is the matter?" He scolded me and said the whole mob was standing out there again. We had a kind of fire extinguisher out there in Block 1 about two and a half meters long. He ran outside and wanted to stop beating them, and he naturally hit somebody. I didn't say anything else in regard to this incident. And then the people ran away, and some of them of course stumbled. Bodet maintained that I beat them with a fire rack but it wasn't a fire rack, it was a fire extinguisher with the hose flat. Bodet maintains that I beat a prisoner to death. That I beat a prisoner so

(Court-Ginsche1)

that he collapsed and fell down and was taken to the hospital. If I had done such a thing in Block 1, where there were so many people who knew me, I certainly wouldn't have been able to carry on my duties as room orderly.

Q Now, Ginschel, Erich Rosenthal, prosecution witness also testified against you relative to an incident which occurred at Schwarzenfeld. Do you wish to make any statement to the court regarding that matter?

A Yes. I must tell the court I never had any interest in my rifle; that I never carried it with me. I never threatened anyone with a rifle, to say nothing of shooting at anyone. When I left the camp with my ten prisoners, I said, "Boys, take it easy, be careful that you don't shoot anyone; you should never raise a rifle against any former comrade", and they all agreed and said they would do it. This Rosenthal was someone in Flossenburg to whom I gave a few slaps in the ear. One evening when I had just finished giving out food, there were about 150 men at the post office getting their packages. I heard a shout, and a Czech cried out that Erich Rosenthal and a couple of others had taken an old man by the neck and were taking his package away from him. We caught him in back of the laundry and we found with him sausage, bread, cookies, and a few apples. He had hidden them in his under-drawers. I didn't take any more notice. I said, "How did you get hold of that?" I gave him a few slaps in the ear and let him go. The Czech whose package had been stolen insisted upon it that he be punished, and he said he should be brought to the clerk's office. He started fighting and other people came and took him to the clerk's office. He insisted that his things be returned to him. They were taken off his person then and given back to the Czech and he got a few blows on the ear and was released again. If it had been reported, it would have been

considered an attack with an intent to rob. I didn't see Rosenthal at all in the transport. I didn't see this man at all; he wasn't there. How can he say I shot anyone to death? If I knew someone killed someone else, I always knew the exact time and this witness did not know that. He didn't know it was before or after the alarm and I myself wasn't there with the train at all. From the early morning until late at night, I was away from the train. I didn't come back until very late.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q Who was this Polish Jew cape whom you spoke of as being among the ten prisoners whom you had?

A I do not know the man's name. I only recognized him when he took the witness stand here.

Q Was he one of the witnesses who testified against you?

A No.

PRESIDENT: Any further questions by members of the court? Apparently not.

PRESIDENT: Now Ginschel, do you have anything further to say to the court at this time?

ACCUSED GINSCHEL: Yes. I would like to explain to the court that it was impossible to kill men in the camp and explain things like that. I would like to say that I carried on my duties in Block 1 properly. I had such a difficult position here in Block 1, it was hard for me to be on the good side of everyone and it was natural that some people were forming against me because I couldn't give everyone in the camp food. That was impossible. Whenever I went into the kitchen to pick up the

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food, someone would always sneak behind me and steal one or two of the portions and make off with it, and I hid a lot of things I was accused of. A lot of things I didn't do because they recognized me as having only one arm. For instance, in the evenings, Block 1 would always be full of people. They were usually prominent people there. People who were decent and clean. I had to see to it that people who weren't clean or orderly didn't come into our block. In the year 1945, at that time when fleck-typhus was raging, people constantly tried to get into the living quarters of this block or into the warm room. I noticed that one prisoner was trying to get in, and he was covered from his head down with lice. I do not know what the people were trying to accomplish by doing that, but at any rate, I had to throw him out. It is natural then that I would be violently attacked because of that, but I wanted to keep the block clean and not dirty like the others. Whenever there was an air attack, the people would sneak into the blocks and as soon as the air attack would be over, they would take things out of the lockers. Top Sergeant Kuebler gave me 25 blows when I didn't keep the people away from his block. I shouted at the people and I admit that I did hit some people with a rubber hose with a diameter of three centimeters. It was a rubber hose but not a rubber club. But I never mistreated prisoners and I never beat anyone to death in any way. I am myself a cripple and I never attacked anyone else because I wanted to be left alone in peace, but when someone attacks me, then of course I have to see to it that I defend myself but I never struck anyone with a soup ladle as was described

here. If I had done anything like that, beating anyone to death or mistreating anyone, it would have been known all over the camp. Even in the hospital, and just the people who would know about them, Goltz, Bodet, and various French doctors - those people never mentioned any cases like that. Nobody ever accused me of being a man with a rough character. Never. I personally am now entering my tenth year of imprisonment with the exception of two years. I was twelve years with my parents. From that point on, I was taken away from them. I left home a man of sound body and now I am a man with eight or nine operations behind him. I have become nervous through this fate which I have suffered and I couldn't help it if I shouted at people and struck them. But I never struck them as described here. I would like to tell the court about the time I was free.

PRESIDENT: The court will recess until 1:30 this afternoon.

(Whereupon court adjourned at 12:00 hours)

Tm 499 10-7-bob-1

Camp Dachau, Germany
7 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; Colonel Denson and Mr. Pinter are absent on business for the prosecution; all the personnel of the defense are present with the exception of Major Oeding and Mr. Hall, who are absent on business for the accused; all accused are present with the exception of Buddemseig, Olschewski, and Oswalt, who are sick in the hospital, and Faye, who is at the dentist; and Farhnbauer and Graeber, who are conferring with counsel. The interests of the accused are being taken care of by their respective counsel. If there are any spectators present who expect to be called as witnesses in the case, will they please leave the court room?

PRESIDENT: Ginschel, do you want to make any other statements to the court at the present time?

ACCUSED GINSCHEL: No, I would only like to describe to the court how I was arrested -- in what way I was arrested.

PRESIDENT: Make your statement concise and to the point.

AUGUST GINSCHEL, an accused, resumed the stand and testified further through an interpreter as follows:

ACCUSED GINSCHEL: Before the Americans came I had already been at liberty -- at large -- for six weeks. After six weeks a Polish Jew came and asked if I had been in Flossenburg and I said "yes". He said that I

had been a decent man in Flossenburg and he praised me. And at four o'clock in the afternoon he came in an automobile with four Americans and three other Jews and he lied to the Americans and said I had been an SS man. They tore the shirt off my back and beat and knocked me down to the ground and ordered me to climb into the car. I remember exactly what the Jew said to me then. I still remember he said, "You live for just one hour at the most, then I take a bath in your blood." I had to lie on the floor of the automobile with my face downward. As long as I was in the car -- about twenty minutes -- I was kicked by feet and beaten with the butts of rifles until I lost my consciousness. They brought me to the American headquarters and locked me up in the jail without any authorization of the Americans. The Jews did it on their own. They locked me up in a cell where there was also another prisoner of Flossenburg. We had to take off all our clothes, and we were beaten with a riding whip until my comrade was bleeding on all parts of the body, and I was the same way. They didn't take any regard of the fact that I was an invalid. I had to get my clothes on and go outside into the woods. They gave me a shovel and said that I should dig my own grave. They stood me up against a tree, I had to raise my hands in the air, and as luck would have it then, an American officer came by and he ordered that they bring me back where I belonged. They brought me back to the prison and then an American officer interrogated me because he saw I was an invalid. I was so beaten up I could hardly

look out of my eyes. I could hardly see -- just a little bit with one eye. This American officer with his own hands washed the blood from my face and from my hands. He chased the Jews out and ordered them not to appear again. But as soon as the American officer went away and there were only two women there in the jail who had to be guarded, those Jews came back again and beat me with a walking stick. Another Pole came and he took me out again. I had to get into the automobile.

PRESIDENT: Just a moment. There was a question as to whether the prisoners came back or the Jews came back.

INTERPRETER: He said the Jews came back. Formerly he said prisoners.

ACCUSED, GINSCHEL: And they came here and said I beat people in the prison and I saw it myself and lived through what went on out there among the Russians, Jews, and Poles. They took a prisoner there and brought an electric saw, sawed him into three pieces, stuck his head on a pitchfork, and placed it on a bridge. There were eighty prisoners there who were disfigured people -- who were completely disfigured and crippled for life. And I can't find anybody -- not one of these people, who doesn't deserve the same punishment they deserve, to do people who do something like that. They are too bad.

MR. BERKOWITZ: If it please the court, I ask this be stricken from the record as immaterial to the issues of this case.

PRESIDENT: Mr. McKay, do you have anything

to say?

MR. MC KAY: I think the life and experiences of this man are important to determine his probability of commission of the offenses with which he has been charged.

MR. BERKOWITZ: May it please the court, the alleged facts occurred after the offenses for which he is being tried and have no connection with any statement he may have made, or any evidence.

PRESIDENT: The objection of the prosecution, rather, the motion to strike on the part of the prosecution is denied.

ACCUSED GINSCHEL: I would like to explain one more thing to the court.

PRESIDENT: Just a minute. The court will give you an opportunity, Ginschel, but you must be concise and to the point.

ACCUSED GINSCHEL: I forgot to mention that when I was explaining something else Rosenthal accused me of having shot some people to death in Schwarzenfeld. I can't bring you any more proof than to mention the fact that I could take you to this woman and introduce you to her. I know where she is still living. That is the only chance I have of proving I didn't shoot anyone to death in Schwarzenfeld. That is all.

PRESIDENT: That is all you wish to state to the court at the present time?

ACCUSED GINSCHEL: Yes, sir.

(Ginschel-statement)

PRESIDENT: Any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Who is this woman you spoke of, and where is she?

A I already told Mr. Kirschbaum approximately where the house is located. I told him where it was located and he said he couldn't find it.

Q Who is Mr. Kirschbaum?

A That is the man who hunts witnesses for us.

MR. MC KAY: Mr. Kirschbaum is an investigator used by the defense to locate witnesses.

Q You have given this information to your own defense counsel, have you not?

A Yes. They can't do anything, either. My defense counsel did what he could, but Kirschbaum said he couldn't find it.

Q Do you know who the American officer was when these people had you dig your grave?

A I only saw this American officer on the two occasions when he happened to go by and when he interrogated me, but you could determine it and prove it because at that time there were only two women in this prison and these women know about this case and other such cases. They know about them.

Q Do you know the names of these two women and where they are?

A We weren't allowed to speak to them. I can only describe them to you.

Q Do you know where they are and what their names are?

A I don't know what their names are. I only know they are in Nuremberg. They have their house there, too.

Q Do you know where their house is?

A Their house is directly across from the school. Here is the school (indicating) and here is the prison (indicating), and they live here (indicating).

PRESIDENT: Any further questions? Apparently not. Defense?

MR. MC KAY: Nothing further.

PRESIDENT: The court understands that you are finished with this particular witness?

MR. MC KAY: That's correct, sir.

PRESIDENT: Re-cross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Have you advised your counsel about the whereabouts of these two women?

A In the prison?

Q Yes, the two women in the prison.

MR. MC KAY: If it please the court, I again ask the court to realize that the relation between these accused and their counsel is a strictly confidential relation. We have tried to do everything in our power to represent them and I think this constant effort on the part of the prosecution to criticise us is wholly uncalled for.

MR. BERKOWITZ: If it please the court, I see no criticism. If the witness feels this is a privileged communication he has a right to refuse to answer. However, the question is proper and not objectionable by counsel.

DEFENSE COUNSEL: In view of the difference in language and the fact that these men are not trained in the law, the defense must ask that any time a question comes up involving a relation between the accused and their counsel that the accused on the stand be given an opportunity to consult with counsel as to whether or not he wishes to claim that privilege.

MR. BERKOWITZ: If you want to short circuit that let the counsel make the objection on the part of the prisoner who is not familiar with the English language and wth court procedure.

PRESIDENT: The court might state, Colonel Wilson, that the court will consider an objection of that nature at any time. The objection of Mr. McKay is sustained.

QUESTIONS BY MR. BERKOWITZ (Continued):

Q Now, Ginschel, you made certain statements against Mr. Bodet. Were you familiar with these alleged items at the time Mr. Bodet appeared on the stand?

A I already wrote down on a piece of paper and sent to Mr. McKay what kind of a man he was, and since the court told me I would have an opportunity to talk later, I saved it and told you about it now.

Q Now at the time Mr. Rosenthal was on the stand were you familiar with the items about which you have spoken this morning?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Any further questions by any member of the court? Apparently not. Mr. Mckay?

MR. MC KAY: Nothing further.

PRESIDENT: The court understands that the defense is finished with this witness?

MR. MC KAY: That is correct.

PRESIDENT: The witness will be excused and returned to his place in the dock.

(Whereupon the witness was excused and returned to his place in the dock.)

MR. MC KAY: The next accused who desires to take the stand in his own behalf is Christian Eisbusch, No. 10.

PRESIDENT: Eisbusch, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED EISBUSCH: Yes.

PRESIDENT: Proceed, Mr. McKay.

CHRISTIAN EISBUSCH, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Mr. Eisbusch, you are one of the accused in this case?

A Yes.

Q Do you care to explain to the court why you feel it necessary to take the stand in your own behalf?

A Yes.

Q Explain that.

A Because for the time being I can't call any witnesses for myself, and because every witness I wanted was refused to me by Czechoslovakia. There is a physician in Czechoslovakia who should testify what I have done in Ganglacker and what I did there and for that reason I feel forced for the time being to defend myself.

Q Mr. Eisbusch, when and where were you taken into custody prior to the time you were incarcerated in a concentration camp?

A I was arrested in 1936 by the Gestapo in Dusseldorf.

Q Mr. Eisbusch, what is your age?

A Twenty-eight.

Q Had you had any prior convictions any time prior to the time you were picked up in Dusseldorf?

A No.

Q Who took you into custody in Dusseldorf?

A The Gestapo.

Q When did you come to Flossenburg concentration camp?

A In 1943 — the 19th of January.

Q Now, when you speak of coming to Flossenburg, will you explain to the court the relation between the main camp and the outcamps of Flossenburg?

A I don't understand that.

Q When you state you came to Flossenburg, do you refer to the main camp, or to an outcamp?

A No. no. I went directly to the main camp.

Q When you went to Flossenburg what color triangle were you given?

PRESIDENT: Court will take a short recess.

(Whereupon the court took a short recess in place and reconvened at 1405 hours.)

PRESIDENT: The court will come to order. Continue, Mr. McKay.

A In that case I will have to go back and relate the facts up to that point.

PRESIDENT: Tell him to make his statements concise, Mr. McKay.

MR. MC KAY: Eisbusch, make your statements concise.

A I got a red triangle in Flossenburg.

Q How long did you continue to wear a red triangle?

A I wore a red triangle in Flossenburg until March, 1943, and at that time I was called into the political department and was told that I wouldn't wear a red triangle any more, but a black one.

Q Did you continue to wear a black triangle until your liberation?

A I wore the black triangle until I was liberated because I couldn't do anything about it.

Q Mr. Eisbusch, without going into a lengthy detail, and so that the court may understand your background, will you relate to the court the various details to which you were assigned while you were in the main camp of Flossenburg working?

A I went to the road building detail, the forest detail, Stich — I was in that detail —

Q What do you mean by commando Stich?

A —We put in new floors and built airplane halls — in the quarry, and in the unloading detail in Altenhammer. Then I worked in the camp.

Q Mr. Eisbusch, do you have any particular skills or trades?

A No, no.

Q What did you do before you were put into a concentration camp in the line of work?

A Farming.

Q Did you own your own farm or did you just work for someone?

A No, I was an employee on a farm.

Q Mr. Eisbusch, when did you leave Flossenburg for Ganzlacker?

A The 20th of February, 1945.

Q How did you proceed from Flossenburg to Ganzlacker -- by that I mean the method of transportation?

A We were for three days on the railroads.

Q How many prisoners left with you from Flossenburg to go to Ganzlacker?

A There were five hundred prisoners with us.

Q How many railroad cars were on your train?

A There were sixteen railroad cars.

Q Did you have any duties on the transport that went from Flossenburg to Ganzlacker?

A No.

Q How many prisoners rode in the car in which you rode?

PROSECUTION: May I have a minute after this question?

PRESIDENT: All right. Have him answer the question.

A In each railroad car there were fifty prisoners.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place and reconvened at 1415 hours.)

PRESIDENT: The court will come to order. Continue, Mr. McHaney.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (continued):

Q Mr. Eisbusch, at the time you were given the black triangle in Flossenburg, were you given any special explanation as to why you were given this triangle?

A No.

Q Were you informed at that time of anything with regard to your family?

A Yes. When I was in the political department they told me I would have to separate from my wife.

Q Did they explain to you why?

A Yes, because I was in a concentration camp for the time being and it would not be good if my wife would continually write to me, merely for the simple reason that my wife came from a Jewish family.

Q Now, was it following this investigation by the political department that you were given the black triangle?

A No, during the interrogation, during the proceedings I received my black triangle.

Q Do you know whatever became of your wife?

A They put so much pressure on my wife that in November, 1944, she hanged herself, together with the two children.

Q Going back to your trip from Flossenburg to Camp Ganacker will you describe for the court as best you can just the size of the railroad car, and the structure of the railroad car in which you rode from Flossenburg to Ganacker?

A It was a twenty ton car. There were fifty prisoners inside the car. There were twenty-five prisoners on each side of the car, on the right side and on the left, and they all sat down.

Q Well what kind of car was it — was it a regular passenger

railroad car, or what was it?

A No, it was a cattle car.

Q How many guards were in this car?

A There were four SS men inside the car.

Q Where were you placed in the car?

A I, of course, sat way off in the corner.

Q Do you recall seeing Silverberg in that wagon at the time you went from Flossenburg to Ganglacker?

A I didn't see Silverberg at all in the car or anywhere. Silverberg was a Pole. According to what they said, we didn't have any Poles in the car.

Q What happened to Silverberg?

A I saw Silverberg for the first time here on the witness stand.

Q Can you give the court any idea of the nationality of the prisoners who went from Flossenburg to Ganglacker with you?

A There were Russians, Frenchmen, Czechs. There were also a few Germans along.

Q What time of day did you arrive at Ganglacker?

A We arrived at Ganglacker between six and six thirty, or between six and seven.

Q In the morning or the evening?

A In the evening.

Q Upon your arrival at Ganglacker to what work were you first assigned?

A First of all we had to thoroughly clean up the airplane halls which were put at our disposal. First of all we had to repair the roof then we had to see that we got hold of some straw because there was nothing at all in the airplane halls

and above all the airplane hangar was cold and damp. And then we put up a barbed wire fence -- entanglement, around the hangar.

Q Will you explain to the court just what was done in the line of work by the men who went to Ganglacker with you?

A There were various details set up -- a farmer detail, and then there was a detail in Landau which was put up to erect telegraph poles. There was also a commando in Deggendorf and the rest of us stayed in the airplane field and worked there.

Q How long did you continue to do this work of fixing up the hangar and making ready the place where you were quartered?

A We worked through the whole night. All we Germans were called to do work and there were also some foreigners among us. And on the 26th of February I had an accident and had to go to the hospital. And I stayed in the hospital until the 12th of April.

Q Where was the hospital located?

A Just a second -- it was the 12th of March.

Q Where was the hospital located?

A That was located inside the airplane hangar. We had a small place partitioned off and we brought our sick people there.

Q How long did you remain in the hospital yourself?

A I worked in the hospital until the 12th of April, 1945.

Q How long were you actually a patient there?

A Until the 10th or 12th of March I was at the hospital myself as a patient.

Q Then explain to the court what you mean when you say you worked there until the 12th of April, 1945?

A On the 10th of March when I was supposed to be released from the hospital the Czech doctor came to me and said he didn't

have anyone to help him and asked that I stay and give him a helping hand in the hospital, and I told him I was agreeable to that if the leader of the camp and the commando leader would agree to it. And, of course, we had very sick people in the hospital with various illnesses who had to be helped.

Q Now what work did you do in the hospital?

A Usually all I did was wash the sick people, that is, those people who couldn't help themselves and they would dirty their beds and they were not capable of standing up and washing themselves.

Q Now during the time that you were in Ganglacker working in the hospital, did you know how many people died?

A Yes. There are, of course, prisoners who die because of serious illnesses. We had people there who died of serious pneumonia, of dysentery, and then we had people there who were already half frozen when they arrived on other transports.

Q During the time you worked in the hospital, Eisbusch, did you have any people brought in who had been injured in any way?

A Yes, I know of one case. There was a crane on the air field and the basket of the crane which was up in the air fell down. It broke off from the chain and one of the prisoners happened to get in the way of this basket. And then we had seriously wounded people who had been shot at during strafing attacks in Ganglacker — those who suffered injuries in a strafing attack.

Q What kind of work was being done by the people who were working around this crane?

A They were on the concrete grinder, and the ground concrete they had to take over to the airplane fields. And this crane was used to throw the sand into the cement grinder. As bad luck would have it, a couple of prisoners were pushing their little

car under the crane at that moment and the basket broke off and dropped down on to them.

Q Do you know how many people died due to accidental causes during the time you worked in the hospital?

A On the 20th of April, 1945, we had, of course, the most severe air attack in Ganghacker. We never saw anything like it in February, and there were eight to nine prisoners in one hall who were killed by the detonation of five bombs, because the air field had been attacked by sixty or seventy heavy bombers and at the first attack the three men died, and at the second attack at noon we didn't know which way to go and a number of prisoners went over to the airplanes to seek shelter, but as bad luck would have it, the airplanes were attacked. The airplane immediately caught fire when it was attacked and the ammunition detonated and shot off in all directions. And, of course, five more prisoners were wounded in that accident. And, of course, they were brought to the hospital -- those who weren't yet dead. But, of course, it didn't last long. Of course, all the prisoners died soon, because, of course, they were attacked too severely.

MR. MC KAY: Let the record show that the accused, Noye, has returned to the dock.

(Whereupon the accused, Noye, resumed his place in the dock.)

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY:

Q Now, Risbusch, how many camps where prisoners lived were there in Ganghacker when you were there?

A In Ganghacker there were, all told, three camps. On the 20th of February, of course, we went into the airplane hangar where, of course, we couldn't stay because there were too many

sick people there. Then, of course, we were all transferred to Landau and there we were referred to a place where the O. T. — (Interpreter's note: O. T. — Organization Todt, or construction company) — where they were located. We had to build a new camp there. We had finished building this camp on the 11th of April and on the 12th of April we were supposed to go over from Ganglacker to Landau to be transferred, but then, of course, another transport came. Where, of course, it came from I don't know. And they, of course, took over the camp which we, of course, had built.

Q Now, Eisbusch, when did you actually leave the camp where the hangar was used for you to live in?

A On the 12th of April.

Q And where did you go?

A Then we went to Landau, to the new camp.

Q How long did you stay there

A Until the 25th of April, until the morning, eight or nine o'clock.

Q Then where did you go?

A And then we got on a transport and sallied out into the unknown.

Q Now, do you know whether this Camp Landau was under the same administration as Camp Ganglacker?

A No, Landau had its own administration, and Ganglacker had its own administration. At that moment Landau got all its food from the Air Force Squadron and Ganglacker got its food from Ganglacker.

Q When you say "Landau", what do you mean?

A We got our food from the city of Landau. And those people who came into Landau got their food from the Airplane Squadron.

Q Now during the time you were in Camp Landau did the

prisoners do any kind of work?

A Yes, they were sent to the same details in which they had formerly worked. The only difference was that the people in Landau didn't come into contact with the people working in Ganacker. Each group fell in by itself — the people from Landau and the people from Ganacker.

Q How long did you stay in Landau?

A Until the 25th of April.

Q Now during the time you were in Camp Ganacker do you recall ever seeing Major ~~Martin~~ Matyn who testified against you?

A No, I never saw Major ~~Martin~~ Matyn in Ganacker. The first time I saw Major ~~Martin~~ Matyn was here in the court room.

Q Did you ever yourself work in the detail that worked on the air port?

A No.

Q Did you ever have anything to do with the people — the prisoners when they fell out to go to work or when they came back?

A I never had anything to do with prisoners.

Q Now this other camp that you said you worked on while you were in Landau — were, or rather where was that located?

A Yes. The people who came to Landau came from Ganacker. They, of course, stayed in the forest, and those people who were in Landau who came on this one transport, they stayed in the open square.

Q Now, Mr. Risbusch, will you explain to the court what, if any contact, you had with Belgian prisoners who were at Ganacker at the time you were there?

A When I was working in the hospital I can say absolutely for sure that Major ~~Martin~~ Matyn was quartered in the hospital. He was

so sick for three days that during these three days the doctor prescribed that he get no food at all except dry bread — toast. But I went over to him in the evening because we had potatoes in the skin — because I knew very well that the way he was might probably mean his death . Nevertheless, I gave him these potatoes because the man couldn't live with this dry bread. I did that with many Belgians, I did that with the Frenchmen who were there in the hospital — I did it with almost everybody. I did it so much that once our Czech doctor gave me a reprimand. He said that if I did it once more I would have to leave the hospital. Of course the answer I gave him was I couldn't stand to see a man eating nothing but dry bread, because he wasn't allowed to drink anything.

Q Now, Eisbusch, when your transport — your fellow prisoners and yourself — left Landau, what mode of transportation did your transport take?

A One day we had to put back seventy kilometers.

Q Yes, but what method of transportation did you use?

A We had to start off in the morning with half a loaf of bread for each man and cover the seventy kilometers on foot. We had to fall in in an open square after we had covered three hundred meters away from the camp. And of course our camp commander directed a few harsh words at each prisoner — it didn't matter whether he was a German or a foreigner. He said that any prisoner who couldn't keep up the pace properly he would see that he was finished off with a mercy shot, and he would follow up the column on a bicycle to see that was carried out. And, of course, several prisoners immediately went over to the camp commander and told him they had bad feet and that they couldn't walk properly. And then

he said to the prisoners -- the camp commander -- "If you can't come along we'll finish you off quick." There was a thirteen year old prisoner there -- there was a fifteen year old prisoner there who wanted to take his brother along with him until they would be liberated by the Americans. But that wasn't possible because the brother, of course, was too weak. In Eggenfeld the camp commander went over to both of them in the forest and shot them to death.

Q Now, Kisbusch, how far did you proceed with the transport that left Landau?

A I went along for about three or four hundred meters and then with various foreigners we took off, but naturally, they shot at us immediately. But of course we were lucky by having trees protect us from the shots, otherwise we would have "crapped" out right there, the same way it happened to other people on the transport, many other people.

Q When were you taken into custody by the American authorities?

A The 25th of May, 1945, in Altoettingen, I was attacked by six foreigners, and of course anything of value on my person was removed. I wanted to make a complaint with the American authorities but, of course, I never got that far, because the six foreigners immediately arrested me and locked me up in a jail at Altoettingen. They told the Americans I had been a capo in the camp. They told them I had been a capo in Auschwitz, which, of course, was thrown out of the window after several hours.

Q Were you ever a capo in Ganglacker?

A I never was a capo.

Q Did you ever have any function in the camp?

A The thing I did was work in the hospital, but that is not

a function — that is a duty you had to perform for any prisoner.

Q Now, did you wear any identification when you were on that job?

A No, no.

Q Now, going back to the transport that came to Camphaker, do you know of any people who were injured or died on that transport?

A Nobody was wounded in this transport, because at seven o'clock in the evening when we arrived, a gentleman came out and surveyed the whole transport. He was a man who was wearing a knight's cross with a sword on it.

Q Do you know what he was — was he a civilian or an officer?

A He was a colonel from the air force. He was wearing a broad epaulet with two gold stars.

Q Now, on your arrival at the camp, was anybody removed from the transport who was buried there?

A No.

Q Mr. Eisbusch, have you ever been interrogated by American authorities since your arrest?

A I was interrogated in Altcottengen. This interrogation was accompanied by severe mistreatment. I was also interrogated in the arrest building in Moosburg. This interrogation was also accompanied by severe mistreatment.

PRESIDENT: Court will recess for a half hour.

(Whereupon the court recessed at 1505 hours.)

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(Whereupon the court reconvened at 1590 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: If it please the court, may the record show that all the personnel of the court are present. All the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter, who are absent on business of the prosecution. All the defense are present with the exception of Major Oeding and Mr. Hall, who are absent on business of the accused. All the accused are present with the exception of Buddensieg, Oswalt and Olschewski, who are sick in the hospital and whose interests are being taken care of by their respective counsel, and Fahrnbauer, who is conferring with counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: You may continue direct examination, Mr. McKay.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q Eisbusch, prior to the recess you were talking about your interrogation by the Americans. Had you completed your answer to that question?

A No.

Q Proceed.

A In Moosburg I was interrogated -- accompanied by severe mistreatment -- and here in Dachau I was interrogated and threatened that I should not make any statement -- I would be brought before a court, which I could not do, of course, because

I personally did not know anything and that is the reason why I am before a court.

Q Who conducted this interrogation at Dachau?

A I was interrogated by various people here. The first two I must say were very decent. I was able to take an oath, and this colonel who took this case in his hands of course said right away "If you don't want to make this statement I will have to bring you before a court." It is too bad the colonel is dead -- you really should not talk about a dead man, but in this moment I have to do it.

Q You stated that you were threatened. What was the nature of the threats?

A The colonel said -- and when I entered I had to stand at attention for one hour in his room -- he asked me several things, things that probably happened in the camp which I did not know. He said to me that if I did not make these statements he would have to bring me before a court, and my answer of course was that he could bring me before a court, that I did not have to be afraid of anything. And then he said to me: "We will find out. We will see each other again before the court." And one week later, of course, I was in the dock and now I could account for the things that Major ~~Marten~~ Matyn is throwing into my face which I have never done in all my life.

Q Mr. Eisbusch, during the process of this trial have you been examined by a psychiatrist?

A Before the trial or during the trial?

Q During the trial.

A Yes, sir.

Q Do you know the doctor who made that examination?

A Unfortunately, no. All I know is that he was an American doctor.

MR. McKAY: If it please the court, at this time the defense offers in evidence Defense Exhibit No. 18, which is the report of the psychiatrist examining this particular accused by direction of this court.

PRESIDENT: Does the court understand, Mr. McKay, that you are simply offering this exhibit for identification only at the present time?

MR. McKAY: No, sir, I am offering it in evidence.

MR. BERKOWITZ: If it please the court, the prosecution does not think that proper groundwork has been laid for this report. There is no evidence whatsoever before the court as to when the man was confined, when the examination was made and by whom, for whom and under what conditions. There has been no identification of the report or of the person who made the examination.

MR. McKAY: If it please the court, during the process of this trial the defense counsel in the performance of their duty felt that there were certain of the accused who should be examined by a psychiatrist and at that time a written request was made of the court and the direction made to the 98th General Hospital to send a psychiatrist to conduct an examination of several of the accused, of which Defense Exhibit 18 is one. The defense respectfully requests the court the opportunity of introducing this without the necessity of calling the psychiatrist, for the reason that his duties in connection with the hospital are such that it is impossible for him to appear. The report, Defense Exhibit 18, is direct from the 98th General Hospital to

the War Crimes Branch, Dachau, and complies with the directive by this court. The defense offers this not to prove that this man is mentally unable to answer charges, but is submitted to this court so that the court may have the medical background of this man in order to better understand his testimony as a witness and to correlate the observation that the court makes of this accused on the stand with a report by the doctor as contained in this exhibit.

MR. BERKOWITZ: If it please the court, the prosecution objects to its introduction as part of the testimony of the accused. The accused is still on the stand and the proper time to introduce the statement might be prior or subsequent, but not during the time of his testimony since it forms no part of his testimony nor any part of a declaration to the court. I don't know the nature of this examination. I don't know anything that the report contains. It was never submitted to the prosecution for examination. Personally I don't know that the prosecution was notified of the date when the examination was made so that a representative of the prosecution staff could be present. But I know that such an examination was requested. No report was ever submitted for our examination. It may be that it is admissable, it may be that there is no objection to it, but I should like to have the opportunity to examine it and I object to its being introduced while the defendant is on the stand.

MR. McKAY: Let the record show that the accused Fahrmbauer has returned to the dock.

PRESIDENT: Have you finished, Mr. Berkowitz?

MR. BERKOWITZ: Yes, sir.

(Eisbusch Direct)

MR. McKAY: If it please the court, this examination was conducted by the doctor as a court officer. There was no one present from either the defense or prosecution. This man was directed by the court to make this investigation and we are now submitting the report back to the court in connection with this man who has testified that he was examined by a psychiatrist. At the time that the request for the psychiatric examination was made a copy of the request and direction of the President of the court was given to Colonel Denson. The direction by the court was made on the 18th of July, 1946.

PRESIDENT: Mr. Berkowitz, the court feels that you should be given the opportunity to look over this Defense Exhibit 18 and if necessary confer with Colonel Denson with regard to same. The court will take a short recess to give you that opportunity.

MR. McKAY: In order to give the prosecution the opportunity to examine this report and look it over I will withdraw my request now and offer the report later with the understanding that the witness has stated he was examined.

MR. BERKOWITZ: Oh yes, that is all right.

PRESIDENT: That is provided you feel the necessity of referring this matter to Colonel Denson.

MR. BERKOWITZ: Yes. I do, sir.

PRESIDENT: The request of the defense counsel, Mr. McKay, is granted by the court with respect to Defense Exhibit No. 18.

QUESTIONS BY MR.McKAY:

Q Mr. Eisbusch, is there anything else you want to tell the court with regard to the accusations made by

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MR. McKAY: If it please the court, this examination was conducted by the doctor as a court officer. There was no one present from either the defense or prosecution. This man was directed by the court to make this investigation and we are now submitting the report back to the court in connection with this man who has testified that he was examined by a psychiatrist. At the time that the request for the psychiatric examination was made a copy of the request and direction of the President of the court was given to Colonel Denson. The direction by the court was made on the 18th of July, 1946.

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MR. BERKOWITZ: Yes. I do, sir.

PRESIDENT: The request of the defense counsel, Mr. McKay, is granted by the court with respect to Defense Exhibit No. 18.

QUESTIONS BY MR. McKAY:

Q Mr. Eisbusch, is there anything else you want to tell the court with regard to the accusations made by

prosecution witnesses against you?

A Yes, sir, about Silverberg and Major Martyn.

Q Proceed.

A For one thing, Silverberg claims that I beat a man to death in the car and that he, Silverberg, had buried this man on February 23. That is a direct lie on the part of Silverberg. When we loaded on February 23 in the evening at 7 o'clock, Gangheimer, a colonel of the air force was there to look over the transport and at that time all 500 prisoners of the transport were present. When he claims that it was a Polish Jew that is not true either, because he gives the number 47600. The number 47600 belongs to a Slovak who is a political prisoner and he died the 16th of March, 1945.

Q Where did you find the fact that this number did belong to a Slovak?

A I looked it up in the book. That is contained in the book and I of course looked up the number that Silverberg stated.

Q To what books do you refer?

A The books that are at the disposal of the prosecution.

Q Are you referring to the camp rolls, Prosecution Exhibits 12 to 19 inclusive?

A Yes, sir.

Q What do you have to say with regard to the testimony of Major Martyn that you just spoke of?

A If I should express myself and can express myself I can only say that it is the meanest thing for the major to

do to appear in uniform and commit a perjury before this court. I know that I cannot help it at the present time because I cannot prove my points, and that is just the very mean thing that Major ~~Marter~~ Matyn is doing. The only thing that helps him is that he is in uniform. If I had really slain those two or the thing that Major ~~Marten~~ Matyn is winding around my neck now the foreigners would have slain me that same day. I was with Frenchmen, Belgians, Slovaks and Russians in one shack in one barracks and they would have surely killed me. And they would have had me arrested immediately by the Americans at Altoetting when the column was freed. But this way I lived among the foreigners for 23 more days.

MR. HALL: If the court pleases, I beg the indulgence of the court to remove Graeber from the court for conference.

PRESIDENT: The court will grant your request, Mr. Hall. Let the record show that the accused Graeber has left the court room for conference with his counsel.

QUESTIONS BY MR. McKAY:

Q Now, Mr. Eisbusch, can you give the court any explanation why Major ~~Marten~~ Matyn might have picked you as the man who caused these deaths?

A ~~No~~one was beat to death in ~~Gammicher~~ Ganacker, but I do have to admit that some Belgians died there because of disease. That they are looking for retaliation I also know, but then Major ~~Marten~~ Matyn should not get any such ideas and state that they had been beaten to death.

Q During the time that you were in ~~Gammicher~~ Ganacker were you ever known by any kind of a nickname?

A No, and as Silverberg states that they called me at Gennicher the Dusseldorfer then he is lying, because no man in Gennicher knew I came from Dusseldorf.

Q How come they did not know you were from Dusseldorf?

A I have been asked quite often where I was from, but I never told anyone I was from Dusseldorf. There was another man in Gennicher who was from the vicinity of Dusseldorf and whether, of course, Silverberg referred to this man in Gennicher I do not know.

Q Is there anything else you want to tell the court about the charges that have been made against you?

A I don't know anything else, only that it is the meanest thing for the major to do to appear against me when I never harmed anyone in Gennicher. If I had harmed that major of course I could understand it, but I never did harm him. Maybe he thinks we are just German people who did not have any rights any more and he wants to push us to the ground that way, but I will not let it get that far.

Q Were there any other prisoners in Gennicher other than the 500 prisoners that came with you?

A On April 12 a new transport arrived but we did not have anything to do with them.

Q Actually were there any other prisoners brought to Gennicher for the work details and other than the original 500 that you came with?

A No.

MR. McKAY: You may cross examine.

MR. BERKOWITZ: No questions.

PRESIDENT: Any questions by any law member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did you write down this number you mentioned that Silverberg gave to this Polish Jew who was beaten to death?

A I found the number in the record.

Q Do you mean in the testimony that was written up?

A Yes, sir.

Q I would like to see that record.

MR. BERKOWITZ: Do you wish me to get the record?

PRESIDENT: I would like to see the testimony and the record. Both the camp record and the testimony.

QUESTIONS BY LAW MEMBER:

Q Did you get this number from the testimony of Silverberg or did you get it from the prosecutor's record?

A No, no. I took that from the document which was part of the record and which is stated in Silverberg's testimony that the number was 47600.

MR. BERKOWITZ: If the court wishes the record I will have it in just a moment.

LAW MEMBER: Does the court have this number?

DEFENSE COUNSEL: On page 1335 of the record.

MR. BERKOWITZ: My number is 1996.

DEFENSE COUNSEL: That may be.

QUESTIONS BY THE LAW MEMBER:

Q From what record did you get this number?

A I have the document in my cell.

MR. McKAY: If it please the court, I think you are entitled to an explanation here. Prior to the time that

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we started in the defense of this case I made a summary of all the testimony against the various accused and made a brief of that and gave it to them and gave the page numbers on which these occurred, and that is what he is referring to. He is referring to the paper I gave him which is my summary of the record against him so that he would know what the testimony against him was. The particular citation that he refers to is on the record, page 1996 which carries that number.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed.)

(Whereupon the court reconvened.)

PRESIDENT: The court will come to order.

MR. McKAY: Mr. Eisbusch, you mentioned the fact that 47600 here ---

MR. BERKOWITZ: Just a moment here.

PRESIDENT: Just a minute, Mr. McKay.

MR. BERKOWITZ: Am I to understand that the court is through with its examination of the witness? -- Oh yes, sir, you are on redirect.

PRESIDENT: I think it is a matter of clearing up this particular point, Mr. Berkowitz. The court is not necessarily finished with the questioning. We are merely endeavoring to clear up this particular point.

MR. BERKOWITZ: I merely wanted to know the status of the court.

QUESTIONS BY MR. McKAY:

Q I am calling your attention to the court record of this case. I notice that the number here which Silverberg referred to was 47600. Have you made any investigation of the

camp rolls -- of all of the numbers beginning with 47600 up to 477009

A No, I was only looking for the number 47600 because that was what was written down on a piece of paper I had.

QUESTIONS BY LAW MEMBER:

Q Kisbusch, will you take this book and look through all the numbers beginning with 47600 ending with 47700 and see if you see any Polish prisoners who died in Gannicher during the period that you were there?

A Here is the number 47600. That is a political prisoner, a Slovak, and he of course died March 6, 1945.

Q All I want you to do is examine 47600 through 47700 and see if there are any Polish Jews who died in Gannicher.

A No, there are no Polish Jews here.

Q Have you examined the record from 47600 to 47700?

A Yes, sir.

Q Do I understand you to say that no Polish Jews died with those numbers or between those numbers at Gannicher?

A Yes, sir. Usually in this last time the prisoners did not wear any number at all, they did not even wear the triangles. When we went from Flossenburg to Gannicher most of them went in the railroad cars and tore off their triangles and numbers because they were not wearing striped clothes at all. Most of them were wearing civilian clothes.

PRESIDENT: Any further questions by any members of the court? Apparently not. Redirect.

MR. McKAY: No questions.

PRESIDENT: Recross?

(Kisbusch-Court)

MR. HERKOWITZ: Nothing further, sir.

PRESIDENT: Any further questions by any member of the court? Apparently not.

Does the court understand, Mr. McKay, that you have finished with this particular witness at this time?

MR. McKAY: Yes, sir.

PRESIDENT: The witness will be excused. Return him to the dock.

THE WITNESS: I would like to say something else.

PRESIDENT: All right, proceed.

WITNESS: When I was brought to this major here he asked me various names, but he did not confront me with this Belgian major. I asked the colonel to confront me with this major but he said unfortunately he could not confront me with this gentleman, and the same way with Silverberg. Those people who are with me in the other court room he did not let them appear as witnesses, probably because they knew me in Gennricher (Granacker) and they had something good to say about me. He would not let them come. There were some of them who came from Altoetting when we were in the prison. They told the officers there that I had not been a Capo in Gennricher (Granacker) and that I had never harmed anyone. Naturally on the first of May, 1946 I follow them outside here and I wanted to have them for myself, but of course I was not confronted with them and now they have either gone back to Poland or the deuce knows where they are, but I believe if I found these people I would not personally have taken the witness stand, but I still hope to present one or two witnesses here who will maintain the opposite of what Major

accused me of. I hope to do that before the trial ends. I don't have anything else to say.

PRESIDENT: You have given these names of prospective defense witnesses to your defense attorney, have you not?

WITNESS: I don't know the names. We never addressed each other by names. In Gannacker Gannicher we would always say "du" or some other way. It is very seldom that you heard a name in Gannacker Gannicher.

PRESIDENT: Do you have anything else to say to the court at the present time?

WITNESS: Yes, sir. If it possible I would like the court's permission to be allowed to go into the camp for one day. There are various SS gentlemen there who were in Gannacker Gannicher and also other prisoners who arrived in the camp from Gannacker Gannicher whom I unfortunately do not know by name but I can recognize them immediately looking at them. I would like to bring them into court and have them here as witnesses for me and ask them questions. There is one prisoner there for example who was in the hospital exactly at the same time I was . When Silverberg maintains he himself had to bury two dead people that is not true. Either the dead men were buried by the personnel from the hospital because the people naturally complained in Gannacker Gannicher that their own people had to lie in the same cemetery with foreigners. It did not matter to them whether the man was dead or not, they would merely take a body there and throw him into the hole and throw in big stones after it. I saw one case where a foreigner went over to a dead man, took a stone which weighed at least 40

pounds and throw it at his head, so that his whole head flew apart. Then of course the population went to the camp director and complained and said that they did not want these people to bury the people any more.

PRESIDENT: Now, Eisbusch, your request as far as the defense witnesses are concerned has been referred to your defense counsel, has it not?

WITNESS: My defense counsel -- pardon me -- I mean my attorney, is doing what he can for me but I cannot give him any names of witnesses I need and therefore he cannot do much about it, but he is doing everything in his power.

I sure look like a fool, I know that, when I cannot bring any witnesses in here on my behalf and if I had really killed and beaten these two and three men to death that is the charge which is laid against me, if I had done that, then I as a German would not be so cowardly to deny it. I never was afraid of the Gestapo and if I had really done that, I would say it now, I would not have anything to fear.

PRESIDENT: Mr. McKay, the court will grant you permission and directs that you make every effort to find any available witnesses at Camp Dachau for this particular defendant.

MR. McKAY: Yes, sir.

PRESIDENT: The court directs that the defendant, Eisbusch, be given an opportunity to identify any possible witnesses located at Camp Dachau, that is, for his defense. Eisbusch, have you anything further to say to the court at the present time?

WITNESS: Not at the present time. Perhaps later at a different time, but not for the time being.

PRESIDENT: Any further questions by any members of the court? Apparently not. Any further questions, McKay?

MR. McKAY: No, sir.

PRESIDENT: Any further questions, Mr. Berkowitz?

MR. BERKOWITZ: No, sir.

PRESIDENT: The court understands, Mr. McKay, that you have finished with this particular witness at this time?

MR. McKAY: Yes, sir. The witness will be excused and resume his position in the dock.

(Whereupon the accused, Eisbusch, was excused and resumed his position in the dock.)

PRESIDENT: The court will take a short recess.

(Whereupon at 1640 hours the court recessed.)

(Whereupon at 1645 hours the court reconvened.)

PRESIDENT: The court will come to order.

MR. McKAY: May it please the court, at this time the defense had intended to introduce the accused, Weilbach, however, I would like to have an opportunity to confer with him a little longer before he takes the stand and respectfully request that the court adjourn at this time. I will be prepared to introduce him the first thing in the morning.

PRESIDENT: The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon at 1650 hours the court adjourned until 0900 hours 8th of October, 1946.)

CA/GI 13

Vol 67

MILITARY GOVERNMENT COURT

CASE RECORD.

First ~~Publication~~ Legal Form No. 10

Court Copy

mjgk

H.D.(C)

FLOSSENBURG

Pages 4727 - 4807 Incl.

Case No. .....

Prosecutor .....

~~Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 8 October 1946
0900 - 1700 Hours

Reporter .....

~~Members of Court~~

WITNESSES:

GEORG WEILBACH
EDUARD ROEHRNER

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
  - or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH FLICK, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

8 October 1946 0900 - 1700 Hours Pages 4727 - 4807 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
GEORG WEILBACH	4726 4741 4761	4776 4782			
EDUARD ROSSNER	4785	4800			

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-18	Psychiatric Examination of Weilbach		4727
D-9	Map of Rollelschen		4752

MORNING SESSION

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10/8/46

(Thereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court. Let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present with the exception of Mr. Hall who is absent on business of the accused. Let the record show, at this time, that Major Oeding has been relieved from further attendance at this case by the appointing authority. All the accused are present with the exception of Buddensieg, Olschewski and Oswalt who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Has the defense anything at this time?

MR. MCKAY: At this time the defense renews its offer of Defense Exhibit No. 18, the psychiatric report with regard to the accused Flisbusch, Number 10.

PROSECUTION: The prosecution has no objection.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense Exhibit No. 18 in evidence and give it such weight as the court sees fit.

(The document heretofore marked Defense Exhibit No. 18 for identification was received in evidence as Defense Exhibit No. 18, is attached hereto, and part of the record.)

MR. MCKAY: At this time the accused Weilbach, Number 43, desires to take the stand in his own behalf.

PRESIDENT: Weilbach, the court understands that you desire to take the stand in your own behalf.

WITNESS: Yes, sir.

PRESIDENT: Proceed Mr. McKay.

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Mr. Weilbach are you one of the accused in this case?

A Yes.

Q Mr. Weilbach why were you sent to a concentration camp?

A The 15th of May, 1937 I was sent to the concentration camp Dachau.

Q Why were you sent there?

A I was sent here after I had served my last sentence from 1936 to 1937 in Bermau.

Q How many previous convictions had you had prior to that time?

A I have had 21 prior convictions, 16 of which add up to 5 months.

Q What was the nature of those 15 convictions?

A Swindle, forgery and embezzlement.

Q What was the nature of the other convictions outside of the 16 you have just referred to?

A Disturbing the quiet, smaller things for which I got 2 or three days.

Q When you were sent to the concentration camp, were you advised as to why you were being sent there?

A Yes.

Q What were you told?

A I was released from Bermau in 1937 in May. Fourteen days before my release, I was picked up by the gestapo and taken to Rosenheim. In Rosenheim I was sterilized and was then returned to Bermau. In Bermau I was released and I had to report to the

gestapo in Munich in Eckstrasse. They told me that after they had read my files I would be free. When I was told in the gestapo building, "Now you louse, you are here."

The reason was that I had refused to participate in the building of kasernes in Feusen, because I remarked that I didn't nee any kasernes and wouldn't work on it.

The second case I was sitting in the restraunt and the Italian Duce he was speaking over the radio. There were several guests and now I said, "Turn that guy off. Noone can understand him." A former colonel of the SA by the name of Senkstein, he was sitting in the corner. He got up and he left. Several guests told me, "Weilbach you better take off he is going to the police." Of course I didn't trust anyone and I left too. I left and I went into Woolworth into a Jewish store and the SS was standing there to the left and to the right with rubber clubs. I went into Woolworth and bought cigarettes. When I came out the SS asked me whether I was a Jew and I said, "Why?". Because I bought cigarettes there, and I said, "If I am a Jew then the SS are Jews too because they bought there too." Of course I immediately received a portion of rubber clubs on my back and they took me to the police.

Q How soon after you were taken to the police were you taken to Dachau?

A I arrived in Dachau approximately the 15th of June and unfortunately I was admitted here with 5 Jews and I stayed there until May, 1938.

I was taken away from Dachau and sent to Flossenburg on the 15th of May, 1938.

Q When you were brought to Flossenburg what color triangle were you given to wear?

(Weilbach-direct)

A I only got a triangle in Flossenburg, I didn't get one in Dachau.

Q What color was the one that you got in Flossenburg?

A Green.

Q Mr. Weilbach, what were you doing in Flossenburg on the first of January, 1942?

A The first of January, 1942 I was still in the stone quarry and the end of January I was released.

Q Released from where?

A From the stone quarry.

Q Why were you released from the stone quarry?

A There were 300 Poles in the stone quarry and I used them as stone masons. Several Poles were picked out from the stone quarry at the end of the year and were shot to death. A Pole came to me and said, "Yesterday they shot my brother to death. It will be my turn now." That has been mentioned by the witness Seiler, and of course, the prosecutor rejected that right away.

There was a decree issued by Berlin that all those prisoners who were entered in the books as skilled laborers should not be taken away from their work. Thereupon I went and took the remaining 50 of the Poles in the stone quarry and threw them into the stone mason's hall. A roll call leader, Schmats, appeared a few days later in the stone quarry. He said, "Weilbach, I need the following number." I don't know the number any more but there were 6 or 7 letters to it. "I have to pick them up and take them to the camp." I said, "Well, all of these are Poles." He said, "Of course, you don't have anything to say about it." I said, "Mr. Roll call leader I don't have any Poles left in the stone quarry. I distributed them over the stone mason's halls." The roll call leader Schmalt,, of course, told me that I was a bandit and left and went

back to the camp.

Two hours later they picked me up and took me into the camp to Captain Fritsch. How I could take all the Poles and put them in the stone Mason's halls as skilled laborers. Whether I was trying to cover up for them, is what he wanted to know.

The next day I was released from the stone quarry. I did that for the reason that several Poles had been shot to death. There are quite a few Poles in Flossenburg who know that I saved the lives of at least 50 or 60 Poles. I also asked the defense counsel whether I couldn't bring some of them here, but the way I understand it the Poles are not allowed to be defense witnesses.

They knew this in the camp as well as it is known here now among the SS and the accused and on the outside that I did a lot of good things in the camp.

Q Upon your release from the stone quarry what did yo do?

A I was released from the stone quarry when the second lieutenant, at that time he was not a second lieutenant, Schoener came along and said, " I will try you now as the deputy camp eldest, second camp eldest."

Q What were your duties as second camp eldest?

A I have to mention something first.

My number was 141. I had to take off number 141 and put on number 2 because I was second camp eldest. This man Bernich received that number. The man who was the defense witness here.

Q What were your duties as second camp eldest?

A At that time I had to assist the first camp eldest. He was a man by the name of Gleifort. I had to get up in the morning and check all blocks to see to it that everyone got up, and I had to be present when they marched to see that everyone departed without any trouble. At the same time I had the supervision of 2 details in the camp, the garbage detail and the stone masons.

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10/6/46

Q How long did you remain a second camp eldest?

A Eight to ten weeks I was second camp eldest, approximately.

Q What was the reason that you were relieved as second camp eldest after 8 to 10 weeks?

A I was relieved because I left 15 Poles who worked in the stone quarry stay in the camp. Those were weak prisoners. I used them as stone masons behind the kitchen and I got them food, bread and potatoes.

I was unfortunate because when I had picked up a kettle of food and a sack of potatoes for the stone masons, Fritsch came along. He caught them and he asked them where they had gotten the food and potatoes from.

Fritsch had me picked up and he said to me, "Now I know that you and the Poles are sticking together." and I was relieved and I was obercapo.

Q What were your duties as overcapo?

A He used me as an overcapo in an outside camp. My job there was with 50 prisoners, the stone quarry settlement. Those were 30 Volk Germans. Then I had 40 prisoners in the sports place and 20 prisoners in the waterworks, a commando leader and a foreman. Fritsch put me out there so that I wouldn't get back to the camp all day.

Q When you say out-camp what do you mean?

A There was outside of the camp in this settlement down there.

Q Calling you attention to Prosecution No. 5 which hangs on the wall over here, I would like to have you come over to this plan, Mr. Weilbach, and point out the places at which you were as overcapo.

A Here was the stone quarry settlement. Here was the sports field and the waterworks were here.

(Weilbach-direct)

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10/8/46

A Yes.

Q Were you telling him what to write all the time?

A Yes.

Q Did you have Major Berger present with you during the consultation with your counsel?

A Yes, sir.

Q During that conference did you direct Major Berger to make notes on what you had told your counsel?

A Yes.

PROSECUTION: Prosecution has no objection to witness referring to his notes.

PRESIDENT: Proceed Mr. McKay.

Q Mr. Weilbach, after you were relieved as overcapo on this detail of work outside the camp, what happened to you?

A I was relieved as an overcapo by Captain Fritsch because the prisoners and I were standing all around the stove. I was just unlucky enough because Captain Fritsch was living near there. He had his house there in the settlement.

Q What did you do after you were relieved as overcapo on this detail?

A I was relieved as overcapo. I was made a capo an I was sent to the fence building detail. In may, 1943.

Q How long were you capo on this detail?

A I was taken away from there and 30 prisoners an. I had to build a pool. He took me as a capo, but at the same time for reasons of punishment. That was a punishment company with a stoplight. They had a red ball on their stomachs and on their backs. They called it a stoplight because it was white with a red ball in the center so as to let the guards know that if one takes off they can shoot.

Q How long were you on this detail?

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10/8/46

MR. MCKAY: Let the record show that the witness has indicated that the stone quarry settlement was at the extreme lower left hand corner of the plan as shown on Prosecution Exhibit 5. To the right of that was the waterworks and to the right of that was the sports field. They are all in the lower left hand corner of Prosecution Exhibit No. 5.

Q During the time that you were overcapo on these details did you actually live in the camp and go back and forth to work?

A Yes.

Q How long did you remain on this particular assignment?

A Until January, 1943.

Q You stated that you were an overcapo there. How many other capos did you have under you?

A Two. Three, there were three.

Q How long did you remain on this detail?

A Until January, 1943.

Q Then what happened to you?

A Now I have to look it up. I can't recall that.

Q Mr. Weilbach, you have taken some notes out of your pocket. I want to know who made those for you?

A Berger made them for me because I can't write. I can't see and I can't write anything down.

Q In other words you can't read or write anything down?

A I can read, but not without glasses.

Q Were these statements written down by Major Berger at your request.

A Former Major, you mean?

Q Were they made at your request?

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10/8/48

A Yes.

Q Were you telling him what to write all the time?

A Yes.

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Q How long were you on this detail?

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10/8/46

A That was a punishment. For one thing we had to march out there for 2 and a half hours to go to work and at night we marched back for 2 and a half hours.

We had to dig a pool that they wanted to put fish in.

Q How long were you in this punishment company?

A In October I was released. 1943.

Q What happened then?

A I was relieved then and it just so happened that two others of the accused were released at the same time.

Captain Fritsch came along in his motor-cycle, and it just so happened that I organized a barrel of beer from the farmer.

Q Now during 1942 and 1943 did you ever have a Jewish detail working under you?

A I am not finished yet. I have to mention something else.

PRESIDENT: Go ahead.

A I am not that far yet. I was taken away from his pool building detail and was sent into an earth detail where we had to dig holes for winterizing potatoes. I was a capo there. There was a capo by the name of Bodet, the one who accused me here.

In october I was sent to the camp for repair work and for the snow detail.

That is all in the camp.

Fritsch, he promoted me 10 times a year and demoted me and then promoted me again. I didn't know who I was myself.

Q Now during that time that you were overcapo and capo did you ever have a Jewish detail working under you.

A In May of '42 the punishment company was taken away from the stone quarry and sent to the camp and existed inside the camp there until October '43.

In the beginning the people in the punishment company had

(Weilbach-direct)

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to carry sand, potatoes and stones, an there was a capo with it, a man who had been appointed by Captain Fritsch personally. The capo Spicker was under the overcapo Rosser when they put something in the cellar. The camp capo was the formerly released overcapo Kessler of the stone quarry who was later transferred to another camp.

This detail, this so-called Jewish detail, existed in October '42. That was the first time that I ever heard of any Jews. I never had seen any before. I never had anything to do with them.

Now I want to tell you about this.

This man Kaufmer who was here and accused me stated that I had been there with Spicker when a Jew went into the wire. I don't remember any Jewish detail in July '42. During that time I never saw any Jewish detail. I only know that later in the year, the end of the year, Jews were there and they were under Spicker. They were in the gardner's place putting potatoes in cellars. He received the name Jewish capo because several Poles went into the wire. He was then relieved then because block eldest. He was no good as block eldest and Captain Fritsch relieved him and was then promoted to the SS. When he was with the SS, as I found out later, they dropped him because he was a thief.

Q After you had been on this punishment detail, to what detail were you then assigned.

A I just told you that I was sent to the earth works and the man Dodet, and the man was my capo, accused me here.

Q How long were you on that detail?

A In October I was sent back to the camp, inside the wire.

It was like this: You knew they had a wire there and Fritsch had the gate there and the ones who worked outside during the day were not allowed to go into the camp and the ones who were in the camp were

(Mailbach-direct)

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not allowed to go outside. That was Fritsch's invention because of black marketing, and he himself was a bigger black marketer than the others.

Q How long did the work inside the camp continue for you?

A In the camp I then worked with the camp eldest who is sitting over there, Mathoi, and we had to drive snow around and had to clear the snow away. We had to drive the snow away so whenever the Captain Fritsch would show up for roll call so he wouldn't have to stand in the snow. If we didn't finish in the morning, getting this snow away from the roll call square, the camp eldest and I had to roll up and down the roll call square and Fritsch was laughing when he did that.

I was there, but I am not sure anymore, until February of '44. The end of January or February, 1944 I was unlucky and I was sent to Muelsen.

Q Where was Muelsen?

A Muelsen is near Zwickau.

Q What connection did Muelsen have with Flossenburg?

A Muelsen and Flossenburg? Well, as far as Muelsen is concerned these were all prisoners from Buchenwald. The prisoners from Buchenwald were sent away, that is the worse ones the Poles told me later, and they were sent to Leipzig to the oiler works, and the oiler works were bombed out later on and all these prisoners were sent to Muelsen.

Q How many prisoners went from Flossenburg to Muelsen with you?

A Two, the Polish doctor and I.

Q When did you arrive at Muelsen?

A I don't know it exactly anymore, of course, but this Polish

(Mailbach-Direct)

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doctor and I arrived in Muelsen around January or February around three o'clock in the morning.

Q What year?

A 1944.

Q How many prisoners were at Muelsen when you arrived?

A I and the Polish doctor got there 3 o'clock in the morning and 49 Russians were there and the Russian capo---

I talked nonsense.

There were, of course, Russians, Poles, Czechs and Frenchmen all mixed up.

Q Mr. Weilbach, lets not talk nonsense. Lets bring out the facts as I ask you about them.

A There were 50 prisoners there with a capo--Russians, Poles, Czechs and Frenchmen.

Q During the time that you were in Muelsen did any more prisoners come to work there?

A Later.

Q How much later?

A I arrived in Muelsen. The second day three Russians took off from me. They took off and after they had been captured after three days they were asked why they had escaped and they said because they had found out that more prisoners and guards would arrive. The first of April, 1944 the first hundred arrived from Leipsig.

Q What was the nationality of those prisoners that came from Leipsig?

A I couldn't know them. They didn't have any triangles and didn't have any numbers. I just depended upon the Polish doctor because he spoke Polish and Russian. When I said Poles here and Russians there I had to believe it. Whether it was true I don't know.

(Weilbach-direct)

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10/5/46

Fourteen days later another transport arrived with about 180. Three days before the mutiny started another transport arrived so that there were about a hundred prisoners.

Q You just mentioned a mutiny. What do you mean by that?

A That is what I mean, mutiny.

When the second transport arrived in Muelsen in the middle of April they shortened the circuit there at least three times.

Q What do you mean by shortened the circuit?

A I don't understand that. I am not an electrician. In the evening at 10 or 11 o'clock when I was going to bed, all of a sudden the light disappeared and in the morning they found out that piles had been stolen.

There were all Russian electricians there with about 10 all together. There was only the Polish doctor who spoke German and who could tell me what was going on in Polish and I had to believe him because I don't understand the Russians.

Q When did this riot at Muelsen occur?

A I don't know the exact date anymore. Anyway about 2 days prior to that, about 12 o'clock at night, the Polish night guard awakened me. He said, "Overcape come outside. They attacked a Pole." I said, "There is no lights, so there must be a short again." I only used Czechs, Poles and Frenchmen as night guards because if I had had Russians they would only have stolen.

Then they attacked a Pole in his bed at night and took all the food away from him. They were hitting about in the dark but most of the time they were hitting the wrong man. If I caught one he said, "Overcape, I am a Pole." If I caught a Pole he said, "Overcape I am a Russian."

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I took that Pole into my room and made the Frenchman, Czechs and Poles fall in in the darkness. I said, "I will get you some food tomorrow. Stay awake and pay close attention. Something is wrong."

Of course, I didn't dare to go to be anymore. I stayed up too and conversed with them because all these Poles and Czechs I had there spoke German except for a few.

The next day, in the morning, I reported it to the detail leader. He called formation, but noone voluntarily reported the man who had done it. I told the detail leader Berger, of course not the one who is sitting over there in the dock, I said, "Sergeant, it would be better if you stick around a while instead of going to the movies with the women. I will tell you the way it was."

I should like to have the court not to look upon me as dumb. I talk the way my mouth is grown. I can't talk the written way.

PRESIDENT: Proceed.

Just a moment. The court will take a half hour recess.

(Thereupon, at 1000 hours, the court was recessed.)

Camp Dachau, Germany
8 October 1946

MORNING SESSION (Continued)

(Whereupon the court reconvened at 1040 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all members of the court are present, all personnel of the prosecution are present except Mr. Pinker, who is absent on business for the prosecution; all personnel of the defense are present; all the accused are present except Buddenbrock, Oberheuser, and Oswald, who are sick in the hospital and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room?

PRESIDENT: Continuation of direct examination, Mr. McKay.

GEORG WEILBACH, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY:

Q May it please the court -- prior to the recess you had told us about the incident that had occurred two days before the riot, Mr. Weilbach. Now I want to know just exactly what happened during the riot itself.

A Yes. I should like to tell the court that there is a man here who is trying to draw a picture of me.

PRESIDENT: For the benefit of the witness, that particular individual has permission to proceed. Go ahead. Explain to the witness that that particular individual is not appearing

for either the prosecution or the defense, and has authority to be in the court room and to proceed with any drawings. Proceed, Mr. MacKay.

MR. MC KAY: Will you read that question back, reporter?

(Whereupon the reporter read the question, as follows:

"Q May it please the court -- prior to the recess you had told us about the incident that had occured two days before the riot, Mr. Wallbash. Now I want to know just exactly what happened during the riot itself.")

A At nine or ten o'clock when I went into the dormitory with the Polish doctor to see if everything was in order -- it was the day prior to the mutiny. At ten or ten thirty the Polish doctor and I went to bed. I had a photograph of my mother over my bed. When I went to bed the picture of my dead mother fell down. I said to the Polish doctor, "Something will happen, my mother has announced herself." I was lying in bed restlessly. Suddenly the Polish night guard appeared in my room, the door was always unlocked. There was a wooden check. He said, "Overcapo, overcapo, there are several Russians who are up and dressed." I went outside in my shirt. I went into the middle of the dormitory and saw that several Russians were up. I said, "What are you doing? Get to bed." Then the guard called me. The guard was standing behind the chair where he had a small window through which he he could look into the inside. The guard yelled, "Overcapo, what's up?". And then I went over to the guard. All of a sudden the Polish night guard yelled. There were also Frenchmen and Czechs which I put on this duty of night guards. "Overcapo, the Russians are lighting a straw mattress." I said

"Now they have." I went through the dormitory which was fifty meters long. I went to the place where it was burning. When I got there to that spot there was a nine hand to hand fight going on between Poles, Frenchmen, Russians, and Czechs. Of course, I got a few stools on my head right away by the Russians. The Poles, Czechs, and Frenchmen came over to me and we were in the center of the dormitory. We defended ourselves with stools and legs of chairs against the Russians. While that was going on several straw mattresses were on fire and there was smoke. The guards were shooting near the door inside the dormitory. Those were all Austrian flyers, and they were shooting at us. Several prisoners fell. A Pole fell on my side, and he said, "Overseps, I'm dying." When they were shooting inside there was air coming in because the attackers went back to their beds and we were pushing towards the door. There was a certain corporal of the air corps, he said, "Cease firing!" I was injured in my left arm where I can show you the injury, and in the head. My hand was wounded. My right foot was wounded. And we were pushing toward the gate with the Poles. The only man who had courage was this corporal from the air corps who took twenty to twenty-five prisoners outside with him and shut the door. Then the commando leader, Durka, came to the first sergeant of the air corps. They asked what was the matter. I said, "You can see that. What can we do?" The corporal said, "Open the door so these people can get out. If you had stayed here and had not gone to the movies that would not have happened." Because at the same time the commando leader was in the movies with four dames." And I went and took a big hammer and went on the outside and tore down the fence. The prisoners were

yelling, "Overapo, overapo, help us!" I then got to the room where the Polish doctor was sleeping. He was also yelling. Five Polish prisoners were lying around with their throats cut. The Polish doctor was able to save himself because he was hiding under the bed. I succeeded in getting him out. I went to the wash room — to the wash room windows around the back, and also down the fence. I had to look on while the stronger ones were pushing the weaker ones back away from the windows. Then I got one in the hand, it was probably a Russian. I couldn't see in the dark and I took off. Then I collapsed. Several Poles took me to the first aid station. The fire department was

there with their women. The military, the wehrmacht, was there, also. At the first aid station there were red cross girls, or whatever you call them. And they said to me, "Oberstarzt, you have to put on a pair of pants." I said, "I don't have any. First bandage me so I can look after my prisoners." While that was going on several officers from the wehrmacht arrived. I assume there were generals because they had wide red stripes along their trousers. Then several guards came with prisoners and put them in the next room from where we were bandaged. They brought in wounded people — people who had been burned, and dead people. I can't give you the exact time because I don't know that any more myself. All I know is that the SS from Flossenburg arrived in the morning with six or seven cars, and then the lieutenant colonel came — Hengel came, or whatever his name was, and he arrived with great brutality. He said the wehrmacht didn't have any business there, it was under his command. Another high officer arrived. I assume he was an oberstgruppenf, an SS general, but he wasn't a Fuhe, because I didn't

see him at all. And high ranking officers from Leipzig made the Czechs, Poles and Frenchmen who were prisoners fall in. The Polish doctor took charge because he could understand the prisoners. They were taken into a large interrogation room. In this interrogation room the Poles, Frenchmen, and Czechs were interrogated, then they picked me up, supported by two prisoners who were leading me. One man who had oak leaves up here (indicating) -- he probably was a colonel -- said, "Heilbach, you are not guilty according to this interrogation. Best for you to do would be to go to the hospital." I said, "I stay with my prisoners. Everything will be all right." He said, "Heilbach, I respect you that such people were not taken to the SS." I said, "I don't want to know anything about the SS." Then the SS from Flossenburg came and picked out thirty to forty Russians -- those who had been lead in by the Poles. Of course I don't know who they were, I couldn't understand them. One man who had started the fire was tied against the mast. The SS wrote a sign above him, "A man from Russian who started the fire." He was there for around a half hour then he was taken away also. They were loaded on to several cars, and also the injured and dead, and were sent to Flossenburg.

Q Did you ever discover the cause of that particular riot later on?

A I can only state what the Poles told me about the interrogation and the Polish doctor told me that. All of these prisoners were transferred from Buchenwald where they had started a mutiny. They were mainly Russian sailors. They were sent to Leipzig with the political block eldest and camp eldest. In Leipzig the prisoners were bombarded quite often. And because

of the bombing Camp Maalesn was activated. The prisoners stated they only had Russian camp elderts, block elderts, and room orderlies in Leipzig. The poles who had given them packages were allowed to stay behind in Leipzig. I always have to emphasize those were Poles, Czechs, and Frenchmen -- the ones who didn't want to divide up -- they were sent to Maalesn. They were five Czechs. They had been in Leipzig. They were also sent away to Maalesn. The Poles stated they stole everything that was there because the Russians were administering everything in Leipzig, and when I got to Maalesn I did the reverse. I took Poles, Czechs, and Frenchmen as barbers, room orderlies, and so on, and that was proven when the commission lined up on the ground twenty-five Poles whose throats had been cut completely, three Czechs, and six Frenchmen. I didn't see any Russians with their throats cut. And that was outside of those who had been burned to death or who were under the wreckage. Then it was said that the Russians had planned a mutiny at a time I was not even in Maalesn. Because when I arrived in Maalesn these prisoners had been there quite some time already. Parts of planes had been sent to Maalesn from Leipzig which were marked, "Russian comrades, Russian comrades, we hope you will succeed May 1. Write to us if it was successful and how many dead people you had." The signs and knives were also taken to Flossenburg. Friedrich Becker is in a much better position to state the whole incident than I am because he was in charge of the interrogations. I was in Maalesn until about the end of May.

Q Then what happened to you?

A I forgot something. After the fire the Sergeant Mieso came from the arrest and with a Russian Prisoner, a man who had been transferred from Maalesn to Flossenburg in the first trans-

port. He was the instigator with the electricians -- the ones who shorted the circuit. The commando leader, Burie, gave orders that everyone had to fall in. Hoess went down the column and the Russian picked out several prisoners. It must have been twenty to twenty-five prisoners. They were sent to Flossenburg. Hoess took them along right away with his car. At the end of May Lieutenant Colonel Maegel arrived with a colonel. He said, "Well, there is a barracks again. We can put prisoners in there." Prisoners were sent from Flossenburg -- only Poles.

Q When did you actually leave Mauthausen yourself?

A I was called to the commando leader, Bachs and he said, "Wailisch, there is a call that you are going to be sent to the hospital in Flossenburg." The Pole said, "Cheranpo will stick with us." I said, "I can't do anything about that." The next day and car arrived. Hoess was in it. He said, "Wailisch, you will be sent to Flossenburg to the hospital now." I took twenty prisoners along who were still suffering from the fire. There were a few Czechs, a few Poles, and the rest were Russians. I also want to emphasize that I don't think all Russians are bad, because if all the Russians had been against us we would have "groaned". And that is the way I got to Flossenburg.

Q When did you arrive back in Flossenburg?

A I arrived in Flossenburg at night. The prisoners who were with me were sent to the convalescent ward. The first night I stayed in Block 19 the accused, Mathoi, took me to Block 19 and showed me to the accused, Dr. Schmitz. I had a fever of 40.5 degrees. Dr.Schmitz admitted me to a ward. I had diarrhea, I had smoke poisoning, and my nerves were shattered. I was in the hospital for about fourteen days.

Q Then what happened to you?

A For days I couldn't eat anything. I said to Doctor Schmitz during one of his visits, "What is the matter, can't I get anything to eat? I can't eat what they are giving me." Dr. Schmitz said, "Heilbach, unfortunately I can't help you because I have no power here." Schmable is the one who makes decisions." Two days later Schmable came and I got a diet. Baumann was lying next to me -- the man who accused me. I told Baumann everything about Hualsen, what had happened there. Baumann stated here while he was in the chair that I am a hoster. In the hospital he was my best friend, and all he stated here was that he heard something about short circuits. Had he told the story I told to him, he would have had to be a defense witness for me. I never had any fight with Baumann. If I had known that Baumann was here I would have taken him a s defense witness. This way it was the reverse. At the beginning of July I was sent to the convalescent block for three weeks. I was in block 23 among all Russians and Poles because I felt among foreigners better than among Germans. I was taken away from the block to the station -- to the railroad station, as a capo. We marched off in the morning and returned at night. The accused, Heye, was in my detail. There I was until August.

Q What kind of work did your detail do in the railroad station?

A I was sent to the railroad station as capo for the fence building, and we had to take things which were in one barracks out of it. We were about fifty prisoners there.

Q Where was the railroad station?

A The railroad station was half an hour's distance away

from the camp. I should like to mention right now that the prosecution witness, Mittmann, states that he saw me in the arrest building during executions. In August I was transferred to Holleischen with two hundred prisoners.

Q What date were you actually transferred to Holleischen?

A The middle of August, I can't give the exact date, 1944.

Q How many prisoners did you say went with you to Holleischen?

A Two hundred.

Q When did you arrive at Holleischen?

A In Holleischen? Well I can't give you any date. All I know is the middle of August.

Q What work was your detail assigned to in Holleischen?

A In Holleischen we were in a stable for sheep. There were beds for all prisoners, food was good and plentiful. Two hundred prisoners were divided up. Some — thirty prisoners went to the locksmith shop in factory No. 1. Those were, of course, Poles, Czechs and Frenchmen more or less because you couldn't use the Russians for that. Twenty prisoners were sent to the station. Twenty-five prisoners were sent to build bunkers, and about thirty prisoners to the pool which was there for the air raid, and the remainder were sent to the shooting range — firing range. Thirty Czechs were sent to the stone quarry, but of course it wasn't any quarry like in Flossenburg. The Czechs wanted to be all together, and they were put together, not that anyone could assume that was a punishment. The Frenchmen I used in the locksmith shop and I even used one Frenchman as a painter. And there were fifty civilians, workers who worked there as rooms among the prisoners.

Q How what other details for prisoners were at Halleischen at the time your detail was there?

A In Halleischen there were just about every kind — Russians in the majority. I think I had thirty to forty Poles, thirty Czechs, and five Frenchmen.

Q What was your position in Halleischen?

A In Halleischen cherenpo, but without arm band.

Q And were there any other prisoners in Halleischen other than the detail which you had to work?

A Yes. There was a French camp near by, internees, they also worked near there. There was an Italian camp there, also internees working in our vicinity, four thousand civilian girls — well, they were all young ones, eighteen to twenty years old. They called it the "Czech" camp. Then five hundred female prisoners. That camp was right across from ours, mainly French girls.

Q Now you said your barracks in Halleischen for your detail was in a sheep shed. Where was this located?

A In 19— in Halleischen in the street.

Q Mr. Weilbach, I hand you a diagram which has been marked for identification Exhibit 19 and ask you what it is?

A That is Halleischen.

Q Who prepared that diagram?

A I had someone prepare it for me.

Q Who prepared it for you?

A Becker.

Q And who furnished all the details for the preparation of that diagram?

A I don't get that.

Q Well, who gave Becker the information that was necessary

to prepare this diagram?

A I told him that then I went to the defense counsel.

Q In other words did you tell him about the location of the various matters that are portrayed on this diagram?

A Yes.

Q How long were you actually in Hohlelschen?

A I arrived there in August and stayed there until January, 1945.

MR. MC KAY: At this time the defense offers in evidence defense exhibit 19 which is a diagram of the area of Camp Hohlelschen, which was prepared by one of the accused, Friedrich Becker, for the accused, Weilbach, who is on the stand, based on the information which Weilbach gave him to prepare the diagram.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: No objection.

MR. MC KAY: Just a moment, I made an error here. This is defense exhibit 9 —

Q Is that the same one you just referred to, Weilbach?

A That's what I just said. I have the Hualsen sketch in the bunker.

Q And this is the plan that Becker prepared for you?

A Yes, he made two — one of this and one of Hualsen, but I forgot the Hualsen sketch.

MR. MC KAY: The defense now changes its offer to exhibit 9 rather than 19.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: No objection.

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MR. MC KAY: This will be used to explain some testimony later on.

PRESIDENT: The court will receive defense exhibit 9 in evidence and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense EXHIBIT No. 9 for identification was received in evidence as Defense Exhibit No. 9, is attached hereto and made a part of the record.)

QUESTIONS BY MR. MC KAY (Continued):

Q Calling your attention to defense exhibit No. 9, Mr. Weilbach, I hand you a fountain pen and ask you to designate the area which was used as the camp for your detail at Hollaischen with the letter "C" then a dash then a "W".

A Where the camp was?

Q Yes.

(Whereupon, the witness indicated on the map.)

Q Now I notice that the place where you have marked is enclosed in a large enclosure which is marked with x's around it. Will you explain to the court what that was?

A That is a wire fence.

Q Now was all of the area inside this wire fence used as a camp for the prisoners who worked on your detail at Hollaischen?

A Yes.

Q Will you indicate on the fence the place where the entrance to the camp was?

A What should I put there?

Q Put an "E" with a dash and a "W".

A I can't put that there. There isn't enough room.

Q Well will you make a line with the pen where the entrance was, then off to the side where there is an area open, designate at the end of the line the letter "E" and a dash and a "W".

A Now (indicating).

Q How will you indicate on that plan where the women's camp you talked about was located?

ACCUSED WEILBACH: What should I put?

MR. MC KAY: A "W-C" with a line then a "W".

ACCUSED WEILBACH: Take it easy. What should I put?

MR. MC KAY: First the letters "W-C" then a line then the letter "W".

ACCUSED WEILBACH: "W-C" then a dash and now —

MR. MC KAY: "W". The last "W" is indicated for your name, the first letter of your name.

ACCUSED WEILBACH: Should I put that there?

MR. MC KAY: Now I want you to understand why you are putting the "W" there. There has been another man who has looked at this plan and made marks, and I want your marks to be designated so the court can tell them from his. Do you understand?

ACCUSED WEILBACH: Yes, I have it there (indicating).

MR. MC KAY: Well, I want you to understand what you are doing.

QUESTIONS BY MR. MC KAY (Continued):

Q Now you stated that this camp was located on a main street. Now what on this plan represents the main street you have talked about?

A Here (indicating).

Q Will you mark that street with a dotted line and put above the dotted line the letter "M"?

A All dots like that (indicating) and now a "M"?

MR. MC KAY: Yes, a "M" above it.

Q Now, Mr. Weilbach, will you explain to the court what happened on Christmas Eve of 1944 at Camp Hallelschen? — that

in, with regard to your prisoners?

A Christmas I stole a Christmas tree.

Q What did you do with it?

A I had the prisoners put up this Christmas tree right outside the door in the camp. Then I started to work. I got hold of the electric bulbs. I had them painted blue and red. When the Christmas tree was finished the female supervisor of the women's camp asked if she couldn't get a Christmas tree, too. So I went out again and stole another one.

PRESIDENT: Court will take a short recess.

(Whereupon the court took a short recess in place and reconvened at 1140 hours.)

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (Continued):

Q Will you examine defense exhibit 9 and see if there is anything on there that represents the Christmas tree that you had the prisoners put up on Christmas Eve, December, 1944?

A Yes. Put a "T" there?

MR. MC KAY: Put an "X" and a line and a "T".

ACCUSED WEILBACH: An "X"?

MR. MC KAY: Just so you will understand, I want you to observe this slip of paper that I have in my hand, and I want you to indicate the Christmas tree by a line then up in the clear part put an "X" and a line and a "T".

ACCUSED WEILBACH: Not that? (Indicating)

MR. MC KAY: Not that, just the Christmas tree.

ACCUSED WEILBACH: The tree's there already.

MR. MC KAY: Just put a line above the line in the open space and an "X" and a "T".

ACCUSED WEILBACH: Like this? (Indicating). I can't make

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an "X".

PRESIDENT: Mr McKay, show him how to make an "X".

(Whereupon Mr. McKay indicated to the accused Weilbach how an X is made.)

MR. MC KAY: Now under the line put a "W".

(Whereupon the accused Weilbach did as instructed by Mr. McKay.)

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (Continued):

Q How far from the road did the Christmas tree set? Estimate it in meters if you can.

A From here to the bench (indicating). There was the tree.

Q Estimate the distance in meters.

A Six meters — six or seven meters.

Q What kind of fence was this that enclosed the camp? Of what was it constructed?

A It was a wire fence with big holes in it and there were three strings of wire up on top. It wasn't a complete barbed wire.

Q I notice that to the right of the camp which you have designated there is another figure indicating that it might be a street which runs perpendicular to the street you have already identified. What was that?

A It was a street in back. There was a street in the front and the main street went down this way (indicating).

Q Now will you designate the streets by dots and a "W" the same as you have done the other?

A There (indicating the streets by dots and a "W").

Q Mr. Weilbach, will you explain to the court just what

people used those streets that surrounded the camp in Hollaischen where you lived?

A Through the main street which leads past the camp four thousand civilians — women — went by there daily to go to work in the factory until ten o'clock at nig t, because there were three shifts in the camp. The Frenchmen marched past there. They also worked in the factory, and the Italians , and the female prisoners. The female prisoners worked in the plants, gardener's plants. Christmas when my Poles and my Czechs were making music these dames were d ncing in the street.

Q Do you recall the witness who testified against you and said he saw you hang a Russian in front of the Christmas tree at Christmas, December, 1944?

A I was shocked then.

Q What do you have to say about that?

A I don't have to be an expert, but I should like to know how I can string up a Russian in a place like Hollaischen where there were civilians around and children where female prisoners would look into the camp, and where there was traffic all the time, and where there were three civilian houses in back of the camp with children and also civilian houses to the left of the camp. The camp was completely surrounded by civilian houses and public streets. Now I should like to see anyone who could tell me that I could string up a Russian on a Christmas tree which is three meters high. And anyway, the man died in Flensburg three months later.

Q Mr. Heilbach, do you recall how many dead prisoners you had in this detail of work in Hollaischen while you were there?

A Yes.

Q How many did you have?

A I had three dead. One man died because he sucked peppermint leaves. I can only state what the doctor determined. And one man brought T.B. of the lungs with him from Flossenburg, and the one man who hanged himself on the rifle range where I am supposed to have given the order. I didn't have any sick people.

Q What was the nationality of the man who hanged himself?

A Russian.

Q Was there any investigation made of that death that you know of?

A I should like to explain this case as it was. The Russian was caught by the night guard when he stole money from a Czech. The Czech caught him, and a few others, and beat him up properly. Now I have to say that I don't understand Russian and I am just stating here what they told me in the morning. His own comrades said to him, "You are stealing again in this camp." And his own Russian comrades beat him up, and if I hadn't stepped in between they would have beaten him to death. I should like to emphasize here that food, surplus food, was brought from the French camp, the Italian camp, the Czech camp, and the female camp, so much additional food the prisoners couldn't eat it, and they received beer three times a week and received an additional liter or half liter of milk from the female prisoners. The smoke situation was bad. I received a sack from Flossenburg. It was two meters high, two meters wide. We used that to smoke. It was hops, and we used that to smoke. Flossenburg sent us that to smoke. Of course we didn't smoke it, the Russians, of course, they smoked it. And Lepak who accused me here because I had polished his kisser at one time, told me, "Veilbach, I am giving you these thirty Czechs because I know you will treat them

well and they will feel at home with you." He sent along prosecutors, lawyers, doctors, and all kinds of prominent men, high ranking men. They received three to four packages a week, and they received forty pounds of wheat flour at Christmas, and fat — lard — and I baked cakes for the prisoners Christmas, because the prosecutor is saying I ate it myself.

Q Who were your superiors at Hollaischen ?

A That was a certain second lieutenant whom I just called Ciegal. He had the iron cross first class. He was a teacher by profession, but was mostly running around with the women, anyway. He only stepped into my camp once a day at the most, then he didn't know anything sensible. The main thing with him was the dames and the female supervisors on top of that. This man was a teacher and he taught these female supervisors all kinds of dirty teachings.

Q Mr. Meilbach, when did you actually leave Hallaischen?

A We marched away from Hallaischen the end of January, 1945, to Zuzic.

Q Where did you go?

A We went into a railroad station at Hallaischen and there was that detail leader who was here at one time and who was one of those who was a defense witness, and we were inside the station and the Czech and Polish women came along and they asked me to play them something as a farewell until the train came. That is the kind of detail Hallaischen was. I am just surprised the Frenchman said he was hungry there. About the other things, I don't even know what to say about those. This Frenchman said he wanted to go with me to Schoenheide, but I told him I didn't have anything to say about who was going along with me. If I had hanged a man in Hallaischen publicly they would have beaten me to death the next day because

the Czech women were worse than anyone else. It was as a matter of fact, it went that far that when I came back to Mollelschen one time — but we will get to that later. I wouldn't go back there where I broke into a house, when I broke into a house I wouldn't go back there. I was there for three days with twenty Poles who had escaped.

Q Where did you go when you left Mollelschen?

A I was taken from Mollelschen to Flossenburg with the detail.

Q How long did you remain in Flossenburg?

A I landed in Flossenburg in block 23, the whole detail.

Q How long did you stay there?

A We stayed there for approximately three weeks.

Then what happened?

A Then another detail was activated and everyone wanted to go along with me again, but unfortunately the detail consisted of only fifty prisoners. It must have been the end of February, of course I can't give you the exact date, I don't remember any more.

Q What year?

A 1945.

Q Where did you go from Flossenburg with these prisoners?

A To the Erzgebirge, to Schoenheide. That is about twenty-five kilometers away from Reichenau to build barracks.

Q How long did you remain in Schoenheide?

A I was sent to Schoenheide with Poles and Russians to build barracks which were supposed to be a camp for prisoners. Women were supposed to be sent there later on but they didn't get around to it.

Q What was your position in Schoenheide with regard to this detail?

A . I have to mention that I have always been called oberkapo in the camp. I was overkapo there, too, although I had only fifty men.

PRESIDENT: Court will recess until one thirty this afternoon.

(Whereupon the court recessed at 1200 hours.)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: If it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, with the exception of Colonel Denson, who is absent on business of the prosecution, all the personnel of the defense are present, with the exception of Colonel Wilson, who is absent on business of the accused, all of the accused are present with the exception of Buddensieg, Olschewski, and Oswalt, who are sick in the hospital, and whose interests are being taken care of by their respective counsels.

If there are any spectators who expect to be called as witnesses in this case, they will please leave the courtroom.

GEORG WEILBACH, AN ACCUSED, resumed the stand and testified further in his own behalf through an interpreter as follows:

PRESIDENT: Continuation of direct examination. Mr. McKay.

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. MCKAY:

Q Mr. Weilbach, how long did you remain at Schoenheide?

A We stayed there until the 15th of April.

Q What happened to you then?

A April the 15th, the detail leader, Technical Sergeant Freitag came. He told us to pack our things, that we would go to Georgenstadt because the American troops had already taken Zwickau. In the evening we drove to Georgenstadt by car. We stayed there for a night and one day. Then the commander leader Freitag came and said, "We will return because the American troops were withdrawn."

We were then sent back to Schoenheide. In Schoenheide we worked for one day. Then Freitag came back and said, "We will pack our things again and go back to Georgenstadt," because

the Americans were only 12 kilometers away from Schoenheide. We packed our things and then marched through Schoenheide, past a school building, to a hill. There were about ten sick prisoners. He left them back in the camp. We picked up rations, of course not for us, but for him. We waited a few hours and then they came along with three boxes of bread, canned sausage and meat.

They put it down and when we prisoners were talking on top of the hill, two Hungarian sargeants came along. They said, "All we want to know is when will the commander leader return?"

The man who didn't return was Freitag. The two Hungarian sargeants said, "We believe he escaped. If he takes off, we take off." There were about six Hungarian guards left.

Low flying aircraft came along. The guards took off and we were in hiding. Of course I wasn't afraid and I talked to some Polish prisoners who spoke German. There were also three Germans present and we took off. I asked them who wanted to go with me. Twenty Poles volunteered.

I went and broke open the boxes and took the food rations that were designated for the S.S. We distributed that among ourselves, and I took off with my twenty Polish men into the woods. We waited in the woods for the air to become clear. We stayed in the woods near Schoenheide overnight, but the Americans didn't come.

Then everything was up to our fate, and we took the field pasture in the direction of Karlsbad. Where the other prisoners went, I don't know. Near Karlsbad we were arrested by some men, and they had to transport us to Marienbad.

Low flying aircraft appeared over Marienbad. We took cover and then took off again. We then went to Plum.

From Plum I went to Holleischen with those Poles as I remarked before. We made quarters where the former Czech women had slept, and we stayed there for two days. I went to the women's camp. Everything was still in order and we begged for potatoes. Then they said that the Americans were in Stangau. The factory guards of Holleischen told us if we didn't take off we would be shot to death. We took off in the direction of Pilsen.

In Pilsen we were arrested by the Air Wing and were put in the barracks in the woods. It was half an hour distant from Pilsen. We slept in there one night without food. In the morning about 20 Czech civilians came and told the fliers to hand over their weapons, to let the prisoners go free, and that the American point would be there immediately, which was actually the case.

From Pilsen we went towards the Americans. There was an American officer present who spoke German. He said, "Pick yourself a car and go to the barracks where the fliers used to be."

Of course, we loaded the car with bread and cans and we took off. We went into the woods and ate real good and then took the direction of Bischofsstein, and of course, in Bischofsstein the Americans were also. We reported to the Military Government. There was a commandant there. He had a wing on his shoulder, and we told him that we came from a concentration camp. An interpreter translated all that and gave me a slip of paper. In that it said that I should take care of several women and should be the leader of the group.

I had to take care of thirty women and help them so they could get back to Bavaria because Radio Pilsen announced that all Germans would have to leave Czechoslovakia within twenty-four hours. I received a pass from the American commandant. With that I was allowed to pass all American roadblocks with these women. Ten Poles remained

in Bischofsstein.

The Americans gave us 5 or 6 liters of Schnapps there. It was in storage and we got food along too and then took off in the direction of Weidenau.

Q When were you finally arrested by the Americans?

A That is what I am going to explain now as to my arrest. In Weidenau I and the ten Poles made quarters for the night in an inn. The next day in the morning I went to the burgermeister, and the Americans were there also of course. I asked the burgermeister to get me the permission to be able to buy food and that I was with these ten Poles in the inn.

A German prisoner came along and he wanted to go in there also to buy food. This prisoner knew me. He had served in the S. S. Canteen in Flossenburg. He is from Upper Silesia. I don't know his name any more. I only know he was from Upper Silesia. He went over to the Americans. He and two Americans came along. The Americans took me along to the guardhouse.

When I was in the guardhouse, he said that I had beaten to death 5000 prisoners. Of course I was shocked. I had to wait another half hour and then the Poles came with some other Poles who had been in Weidenau also, and they told the commandant what kind of a man I was.

The American officer released me and the German was arrested, and I took off again with my ten Poles in the direction of Regensberg. Regensberg was overcrowded with foreigners from Flossenburg. I stayed there for three days and slept among the prisoners. On the contrary, Poles and Russians gave me food on the way.

I took off in the direction of Munich. In Munich

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I stayed for two days with the Russians where also prisoners from Flossenburg were. I then left Munich while the Poles stayed back in Munich. The women were left off in Munich and I went with one woman and three children to Kempten.

I arrived in Kempten and I found out my father, my mother, and my brother were dead. Hitler sold my home and my furniture. I promised this woman that I would not leave her off by herself as I had promised the woman dead. She hadn't heard from her husband for three years because he was in a prison camp or else dead, I do not know.

I reported to the Concentration Camp Committee in Kempten. I went to the police and to the Military Government. I was supported by everyone and I bought myself a home. I saw to it that this woman and her children got a home also. I bought them furniture and I went and got ahold of these three Hitlerites. I received 4000 marks and I saw to it that I had three homes and furniture. All that I organized with these 4000 marks.

There were eight thousand Poles in the Kaserne. I lived five minutes away from there in a barracks. I went to scrounge with those Poles. I went along with the Poles because I figured I would get more.

We were arrested in Waldenholden by the German police of course. We were admitted to jail. The Poles were released and I was unlucky enough—I stayed. During that time they found out I had taken a loan of four thousand marks from these Hitlerites. That was the first of October. I

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received the sentence of one year and was sent to Landsberg. In Landsberg I became a house servant where I was among Poles and Jews again. There were many present there who knew me.

In May, '46 an American officer came along and he said, "Obercapo." He knew I had been an oberscapo. That was the officer who can in charge of guarding the men who had been convicted in the Dachau trial in Landsberg. He said, "You better pack because we will take you to Dachau." That was approximately in the middle of May.

I arrived here in Dachau in the bunker. When I was in the bunker, I heard immediately that they had dragged me through the shit because they believed that I was dead, and then I was interrogated.

Q Who interrogated you?

A The first time I was taken before the Colonel who died—Shaw—whatever his name was. He asked me whether I had beaten anyone to death. I said to the interpreter, "I wouldn't know whom." He said, you better talk about what was done in the stone quarry in Flossenburg."

He showed me many photographs of people who are present here, many of them at least at the present time. Of course I didn't know that they were here. I explained everything to the Colonel—the conditions as they actually had been formerly in the stone quary. When I was finished he said through the interpreter, "Now Weilbach, how was all that now?"

I said, "Yes. What I told you now was all about the year 1942." He made some kind of a hand motion at the table. I understood the Colonel to have said for me to empty the ash

tray as they were full of butts. I went over and emptied the ash tray. Then he jumped up, kicked me in the pants, and said take off. I waved at him. Evidently the interpreter didn't understand, and I was led to believe that I wasn't allowed to do it anymore. Then he gave me two more cigarettes and that was the end of my interrogation.

Then I was picked up again. He is not here any more. It was a black one. He is a technical sargeant. He has been here at one time. He could speak German, and he asked me how many previous convictions I had had. I told him I couldn't count them all off to him. I said I never got out of punishment while Hitler was ruling. He said to me, "You can tell me how it was. You will get farther if you tell me the truth." I told him that because what I have done I have done.

At first he asked me what places I had been. I told him in Dachau, Flossenburg, Pilsen, Hollaischen, Schoenheide. Then he asked me about when I was in Mue/ilsen, and I gave him some explanations about Mue/ilsen. I wanted to tell him everything about Mue/ilsen from the fifty prisoners on up--everything that had happened, etc., so that the prosecutor didn't believe that I was holding back anything. My main reason for that was so the court doesn't believe that I was trying to hide anything if the prosecutor asks me some certain fact now.

Now I would like to have the permission of the defense counsel to say something about the prosecution witnesses who accused me here.

Mr. MCKAY: Proceed.

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PRESIDENT: Mr. McKay, have him be as precise and to the point as possible.

MR. MCKAY: Mr. Weilbach, now in making these statements, be as precise about it and to the point as you can.

ACCUSED WEILBACH: The case, Golts. I have known Golts from the hospital when I was sick. Golts claims that I was a man who beat people to death. I can't say anything bad about Golts, only hearsay, and that has already been brought out to the court. Golts said that Fritsch had stated, "Take him out to Weilbach. We will finish him off in the stone quarry." That was not correct because I wasn't in the stone quarry then. Golts stated that I had picked out prisoners who had been in Buchenwald. When I arrived in Flossenburg, Buchenwald prisoners already had the "S" on their backs. For one thing, I had been in the hospital for fourteen days. Then I was in the convalescent ward for three weeks, and after those three weeks I was sent to the detail railroad station where I did not have anything to do with the camp.

He stated that I had been present during the execution of these Buchenwald people. By the time these people were executed in Flossenburg, I was already in Hallelschen. Ruddensieg took all the investigations. Ruddensieg could speak all languages. I couldn't pick out any Russians because I didn't know any. One man should tell me how I could find Russians among 500 prisoners where there were Poles among them too when I didn't know any of them or hadn't seen them any more. There wasn't any file system or card system on these prisoners who had been in Buchenwald.

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The prosecution witness, Alois Valousek, said that the Russians were talking bad about me in the arrest—that I had embezzled their food. It wasn't possible for me to embezzle any food in Buchenwald because all the food was distributed by the factory. Three orders were given by the detail leader Burke. When there were fifty prisoners and three Russians took off, the detail leader cut the food ration. The second case was when the Russians broke into the lockers of the 300 civilian women who worked there and stole their panties and stockings—he cut the rations again. The third case wasthat of the Pole who had been attacked during the night. Then there was a cut in rations. I went to the detail leader and begged him not to let all of them suffer for actions of a few. That he did later on.

Valousek stated that fifty Poles had been in the arrest. No Pole was sent to the arrest. As a matter of fact, all Poles received words of appreciation from the officers because they acted so bravely in Buchenwald.

Now comes the Frenchman, DuFour. I already mentioned the Christmas Tree story from Hollelschen. I don't have to mention anything about that any more. But about this case of the Russian—the Russian hung himself in the rifle range when I was not present. A report came that the Russian had hung himself, and while he was doing that at least 50 or 60 prisoners were around the firing range. A commission arrived. He was photographed. They questioned several prisoners. Then the Russian was

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taken down. He hung himself with his belt. That was the Russian who stole. I had them make a box for him and he was buried. That is Hollefschen.

Now comes Kucera. He was my block eldest in Block Nineteen. Here in the trial he shook my hand when we went out to go to the latrine and he said, "Weilbach, what are you doing here?" and here he appears as a prosecution witness. I was beaten. He stated that the SS General had made friends with me. I never in all my life saw this General. He said that the General had congratulated me personally. I don't know the man. I only heard of him. I even begged my defense counsel and told him to bring that guy here.

Now comes this one here—Baumann. He was next to my bed in the hospital and had he told the truth about Buehlsen what I had told him then he would have been a defense witness for me and the only thing he mentioned was about the short-circuit. He divided his food with me in the hospital. His colleagues brought me food even. The accused Lothoi knows this because he was capo in the hospital then, and now he comes here and says I have beaten him, that I have been a beater.

Now comes this one, Adolf Ruefner. I can't even imagine Ruefner in Nuremberg and what was being said by him doesn't count with me. I only know that he had a bad reputation in the stone quarry and that he was present during each drinking and black marketing. I can't remember having been standing together with Spickar chasing a Jew into the wire. As far as I can remember Spickar became a capo the end

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of October 1943. He later on received the name "Jew Capo". I can't remember at all that I had any Jew in my detail. Besides at that time I was doing outside work. I only know that at that time the former obercapo of the stone quarry Untaler was camp capo. He said this Jew came from Block 21. No block 21 existed in 1942 because those blocks weren't even there then. That was a lie too.

Now comes the witness, Issak. I already mentioned Issak. He has described me as a decent man because he sent thirty Czechs along with me to Hollaischen. At the same time Issak was working at gardening. Issak said to me at that time, "Capo, be so good. I have an ulcer at the back of my neck." I said, "I have a job for you." That was in headquarters in the cellar. They had cabbage there in storage. I said, "You can recover there by taking the professional job of foreman. You can let the prisoners eat whatever they want to. Just don't let them take anything upstairs.

One day I went down to the basement and I saw Issak with a prisoner. I can't remember his name right now but he later was sent to the labor commitment office too. I went in there blindly. Maybe the court knows what I mean. I am not the man who wants to talk bad about the others. I just said, "You are a dirty pig." I did not report him. Later on then Issak was sent to the labor commitment office.

I have mentioned all about Hollaischen, and he said at the end of '43 that I had been present and placed a noose around the prisoner's neck. But actually these hangmen were Meyer, Iwan, and a block eldest Lofmafeld. And the leader of them all was Fassburger of the Gestapo. The camp eldest Kliefort invented the gallows. He himself manufactured the gallows.

(Wallbach-Direct)

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In these gallows prisoners were hanged all throughout the vicinity up to Regensberg and the Poles were hanged wherever they had done something at the very spot. If a Pole had a girl and was caught doing something that wasn't right with this girl, the gallow went to the very same spot. The Pole was hanged and the girl had to look on. If then these three hangmen returned, they talked about that. There were Poles transferred away from Flossenburg and the gallow was put into the car and the Pole in question also, and he was driver in the direction of where he had committed the deed and was hanged there. Whenever these three hangmen went on a trip, they went in civilian clothes. As they said, they received food, drinks, and things to smoke. Then the main hangmen were released and sent to the Gestapo.

The first Pole who was hanged—when he was hanged four Austrian hangmen came to Flossenburg. Those were professional hangmen, politicals, they carried out the first hangings. All hangings were carried on solely by camp eldests and block eldests, with the one exception of the camp eldest, Pathol. The camp eldest Kliefort was a bastard in this respect because he also invented the gallow. And Lesak states that he saw me. Had I hanged a man in camp with some prisoners present or had beaten people to death, the foreigners would have killed me a long time ago, having been in freedom and liberty for such a long time.

No Pole accused me. On the contrary, I asked, begged my defense counsel to help me that I can get hold of some Poles from Auschwitz. There are Poles right here who

(Seibach-Direct)

know me. There are Poles there who had been in Czechoslovakia and had I known on the outside what would happen to me as it is now, I would have quite a few defense witnesses today. I was only accused by Germans and the reason for that was because in former times the quarry, the punishment company, was a death march. In the punishment company I got the reputation because it was my tough luck to have been the obercapo in the stone quarry. The main murderer of the SS was Sargeant Schram.

I have to give a general description. When the punishment company was originated, only Germans were sent out to the punishment company because only Germans were there. Mostly block eldest and capos who had committed minor offenses. If the block eldest had drawn attention in his block, Weisenborn would say "punishment company".

MR. MCKAY: How long did the punishment company continue to exist in Flossenburg?

ACCUSED WEILBACH: Until October 1943. June or May of 1942 the punishment company was taken away from the stone quarry. I have to protect myself in this matter because I am an accused. I got a bad reputation in the stone quarry and because of that I have to tell you how it all was.

Prisoners had to carry stones up to 100 pounds. They had to walk in mud where they sank about one-half meters. Weisenhorn was standing at the gate when we marched in and he was satisfied if we carried every prisoner in. The prisoners were guarded by the former SS 1st Lieutenant Zolner. He posted guards within the wire near the punishment company and there wasn't a day when three or four were not shot.

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Weisenborn would send block leaders out with single prisoners. They got down to Wall No. 3. In Wall 3 they got a stone on their back and the shot was fired by the young SS man seventeen or eighteen years old. There wasn't a day when I marched to the stone quarry when a prisoner was not shot while marching out there. And why? Because every prisoner was scared of the punishment company.

When the devil came to get Weisenborn, they said that Weisenborn was killed in his bathtub by apoplexy. In reality he shot himself to death. Then the punishment company could become wilder because the factory leader in the stone quarry complained that that was a job where you couldn't make any money. Then the prisoners were used to drive sand.

PRESIDENT: The court will take a short recess.

(Thereupon the court recessed at 1135 hours.)

(Thereupon the court reconvened at 1140 hours.)

PRESIDENT: Court will come to order.

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. MCHAY:

Q Mr. Weilbach, is there anything else you want to tell this court with respect to the charges that have been made against you by the prosecution witnesses? If so, you should make your statements very concise.

A. This lawyer who tried to be a defense witness for me, or at least he was, he stated that I pushed him in the belly and that I was a beast. I think he made a

(Weilbach-direct)

mistake. Karl Mayer was camp eldest and at that time he was in the same room in which the camp eldest slept. Mayer pushed me out of his room and I, of course, went. The same night Mayer had a boy with him in his room and then I knew why he wanted to get rid of me. I blew up because of a hundred pounds of potatoes, and then the SS searched the block and Mayer had potatoes in his room where he had boys, and Lt. Colonel Koegel and Baumgartner were present at that time. They only found one hundred pounds of potatoes on me, and they dug up hams of that size from Mayer. For example, also cigarettes, chocolate, and little cakes--a lot of that stuff he had in there. And then I saw that Lt. Colonel Koegel smacked him in the kisser and asked him where did this stuff come from. This was what he stole from the prisoner packages, and he had two boys in his room and he fed them from these things.

I personally found out that Mayer had gone to the arrest with the block eldest and he was there when two Germans were hanged, and he calls me a beast.

About Fritsch I could speak for a week, but I only will list a few articles. Fritsch was so bad--well, for example, he told me that I had to get a stone from the stone quarry. Okay, I picked up that stone and I put it there where he wanted it. A report was made from the stone quarry that Weilbach had stolen a stone. A Sergeant Seiber made the report. Fritsch had the nerve to say, "Weilbach, to the arrest immediately." I was in the arrest for three days. I was under arrest with water and bread. I was released and Fritsch said, "Some Chercapo who gets caught."

Now in the second case, I came home from the work detail during the roll call and Fritsch told me that he gave a ticket for the hotel to Mayer. That is a ticket for the whore house. I said, "I do not want to know anything about that."

He says, "I give you orders to go back to the special building now." So I went there. He said he had picked out the nicest woman for me, No. 10. He picked out the worst woman for me, No. 10. I hadn't had anything for seven years.

PRESIDENT: Mr. McKay, caution the witness not to go into details about such.

Q It isn't necessary to go into details about such things. Confine your statement as to what Fritsch did to you.

A That is coming up now. The bad thing. I was in that cell and that girl said, "Lets go, Capo." And I said, "I won't do anything," because I saw Fritsch peaking through the hole.

He said, "What's going on in there?"

I said, "I won't do anything."

I came out the next day and Fritsch had big signs painted and he posted them publicly in the camp orderly room which said, "The Capo Weilbach is an air balloon." That was how bad Fritsch was and how he treated me. That is how I got into the arrest quite a few times.

If I stole something for the prisoners, I became Capo. Then the next day I became Obercapo.

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Then I became Lagercapo, and then the next day I wasn't anything but a bastard. That was all I wanted to say about Fritsch. I could tell more.

Q Is that all now that you want to tell the court with regard to the charges that have been made against you.

A Yes, right now.

MR. MCKAY: You may cross-examine.

PRESIDENT: Just a minute. Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Mr. Weilbach, who was the camp leader of Huehlsen during the time of the mutiny that you related?

A Technical Sergeant Foenberg.

Q Do you know a man named Degner?

A Yes.

Q Is he here in the dock?

A Yes.

Q What number does he have?

A I don't know it by heart.

Q See if you can recognise him.

A No. 9.

DR. WACKER: Let the record show that Weilbach identified No.9 as Degner.

Q Is it known to you that Degner was camp commander at Huehlsen at one time?

A Yes.

Q When was Degner sent to Huehlsen?

A I was taken away from there about the middle of June and he must have gotten there about the middle of July.

Q Was Degner connected in any way with the mutiny

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at Muehlen?

A No.

DR. VACHEN: Thank you.

PRESIDENT: Cross examination, proceed.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Veilbach, did you know these things about Karl Mayer when you called him as your defense witness?

A I knew he did those bad things.

Q Now you stated that all the witnesses who appeared against you were German?

A No. Losak was a Czech.

Q Valousek and Knoura?

A They were Czech.

Q And how about Neumann?

A I look upon Neumann as a German.

Q Did you know he was a Luxemburger?

A I did not ask about that.

Q What about DuFour?

A He is a Frenchman.

Q How did you tell this Court that only Germans were in the punishment company?

A Most of them were Germans but that changed the end of 1941 when the foreigners started to arrive.

Q In 1942 what nationalities were received in the punishment company.

A In 42 I can't say because I wasn't in the stone quarry any more then.

Q Well, at the beginning of '42?

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A I don't know about the beginning of '42. I only know that the punishment company was taken away from the stone quarry and was sent back to the camp, and that most of them were Germans.

Q You stated that after this Buchenwald affair there were Poles in the arrest building. How do you know that?

A No, that is what he stated, this doctor or whatever he was from the hospital. It says in my accusation against me that forty or fifty Poles had been in the arrest. But that is not true. No Pole was sent to the arrest building , just as no Pole wore an "N".

Q What nationalities were the "N"?

A The Russians from Buchenwald. I saw that when I returned to Flossenburg. They had an "N" on the back, on the front, and on their trousers.

Q Were Russians in the arrest building who participated in this uprising at Buchenwald?

A All I can tell you is about the interrogation—that Pole said some Russians had started the mutiny and had been sent back to Flossenburg. I personally did not talk to those people. I couldn't tell Russians and Poles apart.

Q Well, did you know of any Poles in the arrest building?

A No Pole did anything wrong in Buchenwald because I know that from the interrogation—what the Polish doctor had stated.

Q Will you answer my question. Were there any

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Poles in the arrest building?

A That I don't know.

Q Were the Russians in the arrest building?

A They said that Russians were there. I only know from hearsay.

Q You stated that at Natzweiler when you got there you stated that the Russian prisoners would be kept in such a position that they would have no authority over the Poles or the Czechs, is that correct?

A The majority were Russians and I only used Poles, Czechs and Frenchmen as room orderlies because the Russians stole so much.

Q What did you do with the Russians?

A The Russians had the same as the others.

Q What kind of work did they do?

A The same. I didn't have anything to say about things that pertained to the work.

Q Did you give the Russians the same rations of food that you gave the Poles, Czechs and French?

A There wasn't anything different then—the same for all.

Q Didn't the Russians complain about the amount of food they were getting?

A Complain? No.

Q Were the Russians satisfied?

A No one came to me.

Q Were the Russians satisfied with conditions in Natzweiler?

(Weilbach-Cross)

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A I couldn't say that. They didn't have enough to eat. Of course, if you talk about enough to eat, I myself didn't have enough to eat. If I wanted to feed a Russian, I would have to put ten liters in front of him, but he got one liter like the Czechs.

MR. BERKOWITZ: Reporter will you read my last question, please?

(Whereupon the reporter repeated the last question.)

PRESIDENT: The court will take a one-half hour recess.

(Whereupon the court recessed at 1505 hours.)

Tu-506-10-8
ehw/1
F1

Camp Dachau, Germany
8 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1535 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Lt. Colonel Denson, who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present with the exception of Buddensieg, Olschewski and Oswalt, who are sick in the hospital, and Pons, who is sick in bunker, and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination. Mr. Berkowitz.

GEORG WEILBACH, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION CONTINUED

QUESTIONS BY MR. BERKOWITZ:

Q How old are you, Weilbach?

A Forty-eight.

Q Where were you born?

A In Dresing.

Q Did you go to school?

A Yes, I went to school.

Q How many years of school did you have?

A My fourth school year. I couldn't go any further.

Q And how many convictions did you say you had had before you came to Flossenburg?

A Twenty-one.

Q And you were selected by the SS as a capo in charge of your fellow prisoners?

A As capo, yes.

Q When did you say you came to Flossenburg?

A May, 1938.

Q When did you become a capo?

A 1939.

Q And you remained a capo, or over-capo, or in a position of authority until April 1945, is that correct?

A Yes.

Q Now, you were also convicted after April 1945, is that correct?

A Yes, I stated that.

Q Was that by a German court?

A Yes.

Q And you were sent to prison in Landsberg?

A Yes, in January!

Q What was the sentence?

A One year, I received one year.

Q Are you certain it was one year?

A Of course. I only got a year.

Q What was the charge?

A Swindle.

Q Weren't you also charged with assault and battery with intent to kill?

A What?

Tu-504-10-8
chg/5

Q Answer my question.

A Yes.

Q And what were these prior convictions for, - your twenty-one convictions?

A Defrauding, forrery, embezzlement, several forgeries, theft.

Q And blackmail, too?

A It could be possible.

MR. BERK WITZ: No further questions.

PRESIDENT: Redirect?

MR. MCKAY: Nothing further.

PRESIDENT: Questions by members of the court? Apparently there are none. Does the defense have anything further?

MR. MCKAY: Nothing further, sir.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Thereupon the accused MILLEAGH, was excused and resumed his place in the dock.)

DEFENSE: May if please the court, and subject to the court's approval, the defense would like to move that the witness' list, as submitted this morning, be modified by calling Eduard Koch/ner to the stand at this time to testify on behalf of the accused Numbers 44, 36, 29, 34 and 12. The witness has testified before. The witness has appeared but may I remind the witness he is still under oath.

MR. BERKOWITZ: Will the court indulge me just a moment while I have a word with Colonel Wilson?

PRESIDENT: The court will grant the request.

DEFENSE: If it please the court, so far as this witness is concerned, Mr. O'Connor will examine him with regard to No. 44. This witness has been cautioned he is still under oath.

Eduard [illegible], a former witness, was called as a witness by the defense and being reminded that he was still under oath, testified through an interpreter as follows:

Tu-804-10-6
-dlg/4

QUESTIONS BY MR. O'CONNOR:

Q Mr. Rechfner, you have already described the circumstances surrounding your arrival in Flossenburg?

A Yes.

Q And the details that you worked on while at Flossenburg?

A I mentioned that when I first got to Flossenburg, I was working at the quarry and later on I worked as an electrician.

Q Did you ever become acquainted with a person by the name of Schubert?

A In April 1942, I learned to know Mr. Schubert.

Q What were the circumstances surrounding that acquaintance?

A Schubert was the factory manager in the earth and stone works and later in the Messerschmidt factory.

Q Did you ever work in the Messerschmidt factory?

A In the fall of 1943, I went into the Messerschmidt factory and worked as an electrician.

Q Did your duties as an electrician take you in contact with Mr. Schubert?

A Whenever I needed material, I would have to go to Mr. Schubert and secure his signature before I could get the material.

Q Approximately how often did you see him?

A I would often see him two or three times a day.

Q Well, from your acquaintance with Mr. Schubert and your contact with him, did you have occasion to see how he treated other prisoners?

A Yes.

Q What was the nature of his association with those prisoners?

A In general, no one ever complained that Schubert ever mistreated a prisoner. Schubert really didn't have anything to do with the prisoners. The commando leader of the quarry and the commando leader of the Messerschmidt factory had to take care of that.

Tu-504-10-8
chw/5

Q What kind of uniform did Schubert wear?

A In 1942 to 1943, Schubert wore civilian clothes; and in the fall of 1943, I believe he was forced to wear the uniform of a first lieutenant.

Q Did it have any special insignia on it?

A I know that Schubert wore the uniform of the first lieutenant of the SS.

Q Well, at the time you knew him, what was the nature of his association with the SS, if you know?

A Schubert didn't really have anything to do with the SS in the camp. He didn't even eat with the SS in the SS kitchen. He went down to the village and would eat there by himself.

Q Did you know what Schubert's reputation was there with the other prisoners?

A In general, Schubert was very popular among the other prisoners. When anyone would not like the type of work he was doing or wanted to change his place of work, he would always go to Schubert and ask him if he could get lighter work or work in some other place.

Q What would happen when they asked him for that?

A Schubert usually approved the request and saw to it that the other one got different work.

Q Did Schubert ever at any time mistreat or beat you?

A Schubert never beat me personally or mistreated me, and that is the way it was with the other prisoners too.

Q During the time you worked in the Messerschmitt plant, did you ever become acquainted with a man by the name of Schroff?

A Yes.

A The last time I saw him was when he was transferred and left.

MR. BERKOWITZ: May it please the court, I ask the testimony concerning Schroff be stricken from the record as being immaterial and irrelevant.

MR. O'CONNOR: If the court please, I am laboring under the difficulty of not having been here when the prosecution put on its case and I have to work from notes, but ....

PRESIDENT: The court will give you a few minutes delay. The court will recess in place.

(Whereupon the court recessed in place.)

PRESIDENT: The court will come to order.

MR. O'CONNOR: Inasmuch as Colonel Wilson handled that at that time, I want him to make the explanation.

DEFENSE: May it please the court, the witness, Kuefner, testified that a report was made by Schroff and passed to Schubert. The time of that report is of some consequence and my notes indicate that the testimony in that regard

(Kuefner-Direct)

Ra-804-10-8
ehw/6

Q When did you become acquainted with him?

A I learned to know Schroff in '43 and I knew he was in the civilian hall as a capo until December of 1944.

Q The civilian hall of the Messerschmidt factory?

A It was the civilian hall in the Messerschmidt factory.

MR. BIRKENWITZ: How do you spell that name.

DEFENSE: S-C-H-R-O-F-F.

Q You say he stayed there until December of 1944?

A Yes.

Q What happened to him then?

A As far as I know, Walter Schroff was then transferred to outside detail to Dresden.

Q Did you ever see him around there after the time he was supposed to have been transferred?

will be found in the record on page 1570. Inasmuch as the witness, of course, was not present in the courtroom at the time the testimony was given, I do not feel it is proper to elaborate on this with the witness on the stand now. That is the pertinence of this.

MR. SEMMONITZ: If the court please, I am not going into a report at all, I will withdraw my objection.

PRESIDENT: Your objection?

MR. SEMMONITZ: I will withdraw my motion.

A (Continued.) I do not believe I ever saw him in Flossenburg after the transport left.

Q And that was in August 1944?

A I cannot tell you the exact month any more, but it was in the summer.

Q Of 1944?

A Yes.

QUESTIONS BY MR. HALL:

Q Do you know a man by the name of Kussfeldt?

A Yes. I knew Kussfeldt in Flossenburg around February or March.

Q Of what year?

A 1945.

Q Identify him at this time, if you can.

A There he sits (indicating).

MR. HALL: Let the record show the witness has identified Kussfeldt as number 29.

MR. O'CONNOR: As a matter of convenience, may we ask if he can identify Schubert.

QUESTIONS BY MR. O'CONNOR:

Q Can you identify Schubert?

A Yes.

(Rochlitzer-Direct)

and often carried on conversations with the people.

Q Whom do you mean by "people"?

A The people who were quartered in Block 1.

Q Do you mean prisoners, or SS men, or what?

A Nothing but prisoners were quartered in Block 1.

Q Now, will you please describe the manner in which he treated the prisoners in Block 1?

A After roll call, Hassfeldt often came to Block 1 and carried on private conversations with the people there.

Q What, if anything, did he give to the prisoners?

A MR. BERKOWITZ: I object to this as leading.

PRESIDENT: Objection sustained.

Q Do you recall any other contacts that Hassfeldt had with the prisoners in Block 1?

A I already said that after the roll call Hassfeldt would often to Block 1, and after taking care of the written work he had

Q Please point him out.

A He is up there (indicating).

MR. O'CONNOR: Let the record show that the witness identified the accused wearing number 44 as Schubert.

QUESTIONS BY MR. HILL:

Q Now, again with reference to Wasserfeldt, Mr. Rockmore, where were you living at the time you saw him in February or March?

A I saw Wasserfeldt in Block 1. He was a roll call leader there.

Q How often did you see Wasserfeldt at that time?

A Daily.

Q Will you please describe the circumstances under which you saw Wasserfeldt daily?

A Wasserfeldt often came into Block 1, to the clerk's office

to do and on the side, he would carry on conversations with the people there.

Q How did he treat these prisoners?

A I personally never saw that he beat any prisoners or mistreated them in any way.

Q Do you recall of any conversations that he had with the prisoners?

A Yes, he carried on private conversations, that is, he told us things which were going on on the outside.

Q Now, do you know a man by the name of Pinter?

A Yes.

Q Identify him, if you can.

A I don't see him.

PRESIDENT TO WITNESS: Walk right down to the defense table and take your time.

MR. HAIL: Let the record show that the witness identified the accused wearing number 96 as Pinter.

Q When did you first become acquainted with Pinter?

A I learned to know him for the first time in the summer of 1944.

Q Where?

A Pinter was the dog leader.

Q Now, how often did you have occasion to see Pinter from the summer of 1944, on?

A Perhaps three or four times a week. I would come in contact with him when I had to go to the outside commando.

Q Will you please describe how Pinter treated the prisoners, from your observation?

A I often went out with Pinter to the outside details of the work, and when we did that, we often made private visits in private houses, talk with the people and get something to eat and

and drink from them.

Q Will you please describe the manner in which Pinter supervised his details?

A Whenever we had to go to the outside detail to make some sort of repair work, we tried as best we could to get Pinter, the dog leader, to go along. And then we would go by twos or threes to our work and along with that we would make these visits to the private houses to get something to eat or drink.

Q Who was guarding the other prisoners in the meantime?

A Pinter often gave us an opportunity to go alone into these private houses, to come into contact with the civilian people.

MR. HALL: No further questions.

DR. WACKER: I am making my questions at the request of Laulicnek, but I would however, like to make the court a very brief explanation, before doing this, and I request the court's permission to let this witness be excused temporarily until I make my explanation. I would like to tell the court that I had anticipated making an opening address in regard to each particular accused whom I represent, so that the court would know what is going on; but I have been taken by surprise here and I would like the court to know my explanation.

MR. BIRKOWITZ: If it please the court, the court is interested now in hearing the statements of the witness and not in the explanation of counsel. The proper time to make the argument, based on the evidence, would be at the conclusion of the testimony. The defense has chosen not to make an open-statement and at the present time, it is hardly the time for that.

PRESIDENT: The court understands, Dr. Wacker, that you

want to simply explain to the court your reasons for interrogating this particular witness.

DR. WECKER: I just want the court to be in on the picture and know why I am asking these questions and know what is going on.

PRESIDENT: Due to the diversified interests of the defense counsel, the request of Dr. Wecker is granted by the court.

DR. WECKER: But I do not want the prosecution to throw it in my face that the witness overheard this statement. Therefore I want to know now whether the witness will be excused or not.

PRESIDENT: The witness will be excused.

(Thereupon the witness withdrew, having been excused by the court.)

DR. WECKER: I am questioning this witness in behalf of Pavlicek. Former was the witness who put the finger on Pavlicek. That is the witness with whom he had this personal difference. I have condensed the testimony of Former here briefly.

(Thereupon Dr. Wecker read in German the statement referred to, which was not interpreted by the interpreter.)

PRESIDENT: The court does not understand what it is about.

MR. SPRECHER: I am frank to say I do not know what it is about. The procedure is irregular. The counsel is evidently going to give the court a repetition of the testimony already given to the court. The court is entitled to the benefit of its own recollection of his testimony without any recollection by the counsel as to what the testimony was. I object to it, sir, as being irregular.

PRESIDENT: Dr. Wecker, just what is the nature of this

statement?

DR. WACKER: I have briefly condensed here the statements of the witness Tegmer in which he accuses Pavlicek and I just want the court to understand why I am questioning the witness with regard to that. I just want to make the job easy for the court, - so that they will know what is going on. I cannot believe that after all these months, the court knows each detail about each accused, and that is why I want to make the job easier. Therefore, I have condensed it for them.

PRESIDENT: The court has access to the records of the case, and in addition to that, each member of the court has made notes of the testimony of each of the accused. The court does not desire a resume of the testimony of any particular prosecution witness at the present time. I think it will be sufficient, doctor, if you will just indicate on whose behalf you desire to interrogate this particular witness.

DR. WACKER: Then I ask that the witness be called.

PRESIDENT: The objection of the assistant prosecutor, Mr. Rashowitz, is sustained. The record should indicate that the statements read by Dr. Wacker in German, has not been interpreted. The court does not have cognizance of its contents. The record should also indicate that the witness has resumed his position. The witness is cautioned that he is still under oath.

Eduard ROSENBERG, a previous witness for the defense, having been excused temporarily by the court, resumed his position at the witness stand, and having been reminded that he will still under oath, testified further through an interpreter as follows:

PRESIDENT: Alright, proceed Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Do you know a man called Pavlicek?

A Yes.

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Q Please look over in the dock and see if you can identify him.

A There he sits (indicating).

MR. MCGOHEY: The record may show he has identified Paulozek as number 3.

Q Where did you learn to know Paulozek?

A At the railroad station in Floesenburg?

Q What year was that?

A I learned to know Paulozek as a commando leader in the fall of '42 in the railroad station.

Q What were you doing at the railroad station?

A From June to November 1942, I was working there at the railroad station as a stone cutter.

Q Were you daily at the railroad station or were you there at intervals?

A In the time in which I just mentioned, I was daily at the railroad station.

Q What position did Paulozek have at that time at the railroad station?

A In September or October 1942, he was sent down to the railroad station as a commando leader.

Q What kind of detail was that?

A He led the unloading work detail.

Q Do you know how big this work detail was?

A There were two different work details, loading and unloading detail.

Q How long did Paulozek work there?

A I don't believe he worked there quite two months. And then he would take turns by being block leader in the camp.

(Hoehffner-Direct)

Q Do you know of what block he was block leader at that time?

A I can't remember.

Q Let us go back to the railroad station. Did anything unusual happen during the time Pavlicek was commando leader at the railroad station?

A I can't think of anything that might possibly have occurred there that was unusual at the railroad station.

Q If any prisoner had been beaten to death at the railroad station, could you have found out about it?

A If a prisoner had been beaten to death at the railroad station, we would certainly have had to find out about it. Most of all, the work detail at the railroad station was not very big and secondly, they would have had to carry him back to the camp.

Q During the time when Pavlicek had this work detail under him at the railroad station, was any prisoner ever carried back from the railroad station?

A During the time I was there, I would remember if we had to carry anyone from the railroad station back into the camp.

Q Do you know a man by the name of Baumgart?

A Baumgart was the foreman of the unloading detail.

Q Was Baumgart also a prisoner?

A Yes.

Q Do you know whether Baumgart got 25 blows with a stick at this particular time?

A I have another recollection that Baumgart was punished and then that he was transferred, but I do not know the reason.

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Q Did that take place in this particular time, that is, in September 1943?

MR. BERKOWITZ: I object to that as leading.

DR. WACKER: I withdrew my question.

Q Do you know when Neumayer was punished?

A That must have been around October or November.

Q Do you know a certain Paul Toesmer?

A Yes.

Q Where did you learn to know him?

A Paul Toesmer was the foreman of the civilian hall.

Q Did you ever see him at the railroad station?

A As far as I can remember, - now I believe he did work at this work detail.

Q In general, how did Pahlenek treat the prisoners there at the railroad station?

A We could never make any complaint about the treatment we received from Pahlenek.

Q Did he ever beat the prisoners?

A I would remember any such incident.

Q Could you say with certainty that during the time you were there at the railroad station that no fellow was ever beaten to death?

A I already mentioned before, I cannot remember any incident at the railroad station where a prisoner was beaten to death.

QUESTIONS BY DR. KNOLL[EL]MOSER:

Q I am asking my questions in behalf of Geisbergen, Number 12. Could you tell us about the duties of the roll call leader in the camp and what kind of position he held?

A The main duty of the roll call leader was that at the certain

time which would usually be evening, he would hold his roll call.

Q Did this roll call include the entire personnel of the camp?

A That was the so-called roll call when everyone was counted in order to determine if all the prisoners were present in the camp.

Q When you were there, who was the roll call leader then?

A We had various roll call leaders.

Q Could you tell me who was the roll call leader in 1945?

A Knechler was roll call leader before Geisberger, between 1944 and 1945.

Q Can you tell us anything about the fashion in which Knechler conducted his roll call?

MR. BENKOVITZ: That is objected to as being irrelevant.

DR. ENGELHORN: The question is relevant because we would be able to prove there was a great difference in the way in which Knechler and Geisberger conducted their respective roll calls.

PRESIDENT: The objection is sustained.

Q Please explain to the court how the accused Geisberger conducted his roll calls, in particular, how long these roll calls lasted?

A Knechler's roll calls were usually feared. They lasted for one-quarter or one-half an hour and he would often undertake mistreatment or beatings if the prisoners did not stand quietly. And when Geisberger took over, it called attention to the fact that the roll calls were done orderly and quickly, within ten or fifteen minutes.

Q When did you learn to know Geisberger?

A As far as I can remember, Geisberger came to us in February or March as a roll call leader.

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Q Could you be able to recognize Geisberger if you saw him again to-day?

A Yes.

Q Please take a look at the gentleman in the dock and try to identify him.

A Here (indicating).

Q What number does he wear?

A 12.

/ ENGELHORN ENGELHORN, May the record indicate that the witness has identified Geisberger as number 12.

Q Please explain to the court how the accused Geisberger treated the prisoners?

A Geisberger and Hussfeldt alternately held the roll calls and both of them were very popular. Geisberger also often came into Block 1 and talked with the people and it often he pened while he was talking to the people he would give out cigarettes.

Q Did you see or did you not see that Geisberger once beat a prisoner.

A I never would have believed that Geisberger would do such a thing. And during the times when I didn't see, I don't believe he did it either.

Q Can you tell the court anything about the fact of whether or not transports arrived in Flossenburg in the spring of 1945, and if so, in what condition the transports were?

A In the last months of 1944, a great many transports arrived in Flossenburg from Buchenwald and Auschwitz. 600, 700, or sometimes 1,000 men arrived.

Q In what condition did the men arrive?

A Many of them, - the prisoners who arrived, were very

weak because they received so little to eat in the transport, and many bodies were laying around in the railroad station, and many people kicked the basket on the way from the railroad station to the camp.

Q Do you know what this special building was at the camp?

A Yes.

Q Tell us.

A The special building in the camp was the public bathhouse.

Q Did Geisberger, as roll call leader, have any official duty in this special building?

A Geisberger often went back there in the evening and took charge of the place.

Q Will you please tell the court whether Geisberger made any discrimination between Germans and foreigners when he was conducting this special building?

A As far as he could, Geisberger fulfilled the heart wish of every prisoner.

EL
LF

DR. ENGELBRUCH: No more questions.

PRESIDENT: Any further direct examination on the part of the defense?

EL

DR. ENGELBRUCH: One more question.

QUESTIONS BY DR. ENGELBRUCH:

Q A little while ago you stated that Geisberger came as roll call leader in February or March. Will you please tell us in what year?

A I did mention in February or March he came to Rosenberg as roll call leader, that was in 1945.

QUESTIONS BY LT. COLONEL WILSON:

Q During the time you knew Mansfeld, that is the beginning

of February and in March 1945, who was the block leader in Block 1?

A Hasefuldt.

Q A moment ago, the translation came out that Hasefuldt was a rollcall leader. Now which was he, with reference to Block 1?

A Hasefuldt was a block leader and he alternated with Goisberger in official duties.

Q Now when was it that you were in the stone quarry?

A I was in the quarry from 1942 until 1945.

Q Do you know a man by the name of Gilhardt?

A As far as I can remember, Gilhardt worked there in the dog's kitchen, or else he was a dog leader.

Q Identify him, if you can.

A There (indicating).

DEFENSE: Let the record show the witness has identified the accused Gilhardt as number 13.

Q Where do you recall of first seeing him?

A I only knew that he worked around the inside of the dog's kitchen.

Q And where was that located?

A It was set off at a little distance from the camp.

Q Where was it in reference to the stone quarry?

A Perhaps about five hundred metres distance from the quarry.

DEFENSE: That's all.

PRESIDENT: Any further direct examination?

DEFENSE: No further direct.

PRESIDENT: Cross-examination, Mr. Berkowitz?

CROSS-EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You are German, are you?

A Yes.

Q Did you leave Flossenburg in the evacuation transport?

MR. MCKAY: Objected to as going beyond the scope of direct examination.

MR. BENKOWITZ: The witness has testified as to various positions he held in the camp and I want to explore his full connection with it.

PRESIDENT: The objection of the defense counsel, Mr. McKay, is sustained.

Q How long did you remain in Flossenburg?

A Until 1945.

Q What date?

A Probably around the 17th or 18th of April.

Q Where did you go from Flossenburg?

A I went along a piece up until Neuhammer, and then I shoved off by myself.

Q Did you have an opportunity to see how Hassfeldt treated the prisoners in the evacuation transport?

MR. HALL: I object to that as exceeding the scope of direct examination. We did not bring up the evacuation transport, not directly or even indirectly.

MR. BENKOWITZ: If it please the court, the question as to how Hassfeldt treated the prisoners was testified to on direct examination and now I have a right to find out how he treated them in various parts of the camp or in any part of the camp, the duties he had and how he supervised them.

PRESIDENT: The reporter will repeat the last question.

(Thereupon the reporter read the question.)

PRESIDENT: The objection of Mr. Hall is sustained. Just a moment, this ruling has been objected to by a member of the court and a vote will be taken. The court will be closed.

(Thereupon the court was closed at 1645 hours.)

(Thereupon the court was opened at 1650 hours.)

(Recipher-Crowe)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Lt. Colonel Damon, who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present with the exception of Buddenbrock, Obenhauer and Oswald, who are sick in the hospital, and Penn, who is sick in bunker, and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

The witness is reminded that he is still under oath.

PRESIDENT: The objection of Mr. Hall is overruled. Proceed.

EDUARD ROSENBERG, called as a witness by the defense and being reminded that he was still under oath, testified through an interpreter as follows:

CROSS-EXAMINATION CONTINUED

QUESTIONS BY MR. BERKOWITZ:

MR. BERKOWITZ: Will the reporter repeat the question.

(Thereupon the question was read by the reporter.)

A I didn't see Mansfeldt by the transport.

Q Did you have an opportunity to observe Pavlicek during the course of the evacuation of the transport?

A No.

Q Now, were you with Pavlicek at all times while he was commando leader at the railroad station?

A I did mention that Pavlicek was working at the railroad station detail but only for one or two months.

Q Were you with him at all times during that work detail for those one or two months, when you were working at that railroad

detail?

A I was working in the railroad approximately from June until October or November.

Q Do you remember the exact time when you left the railroad detail?

A It was around the end of October or beginning of November when I left this detail and went back to the stone quarry.

Q What year?

A 1942.

Q And you don't know what happened at the railroad station after you left there?

A After I left the railroad station, I couldn't know what happened there.

Q And was Paul Toerner still working at the railroad station after you left there?

A I can't remember exactly whether Toerner continued to work there or not.

Q Now, did you have an opportunity to see any of Steinberger's activities in the arrest building?

A No.

Q Did you have an opportunity to observe any of the activities of Gallhardt in connection with the evacuation squad?

A I don't know what Gallhardt did either. - I did not come in contact with him.

Q Now, did you know that Schubert was in charge of the administration of the quarry?

A I know that Schubert was factory manager for the Earth and Stone Works.

Q Did the Earth and Stone Works operate the quarry?

A The quarry belonged to the Earth and Stone Works and was directed by them.

Q And Schubert was in charge of the administration for the Earth and Stone Work for the quarry, for the camp, is that correct?

A Schubert had to take care of the technical aspects of the works for the Earth and Stone Works and he was responsible for the work. Inside the quarry, the detail leader who was in the quarry was responsible for the work in the quarry.

Q Wasn't Schubert responsible for getting people to work in the quarry?

MR. MCKAY: If the court please, I would like to ask Mr. Berkowitz to put a time limit on that. The witness was only in there in 1942. If he will put a time limit into his question I will be satisfied; otherwise, I object.

PRESIDENT: Objection sustained.

Q I refer to the time you worked in the quarry.

A I did mention that starting in April 1942 I was working in the quarry and included in the area of the quarry was the Messerschmidt factory.

Q Don't you know that at the time you were in the quarry that the operation of the quarry and of the Messerschmidt factory was under the direction of Schubert?

MR. O'CONNOR: If the court please, that is a qualifying question. He asks the witness if he knows. I would like the witness to answer 'yes' or 'no' before he explains it.

MR. BERKOWITZ: The objection is out of order. The witness has not answered it. There is no motion to strike the question or any part of it. After he answers, that may be in order.

but at this time, it is out of order. And I object to the defense counsel practically instructing the witness how to answer.

MR. O'CONNOR: I think the court can rule on what is proper and what is not proper without any instructions from the prosecution.

PRESIDENT: The court understands, Mr. Berkowitz, that you desire an either "yes" or "no" answer.

MR. BERKOWITZ: I asked the witness a question and I am waiting for an answer.

MR. O'CONNOR: He asked him if he knew. I think that is a qualifying question and before he goes on to any explanation, I think he should first answer that question if he knows by "yes" or "no".

MR. BERKOWITZ: I submit that the witness should be permitted to answer without instructions from the defense counsel.

PRESIDENT: The objection of the defense counsel, Mr. O'Connor, is sustained. The witness is permitted to answer the question by either "yes" or "no". After the answer is given, Mr. Berkowitz, you can proceed.

WITNESS: What was the question.

MR. BERKOWITZ: I will withdraw the question.

Q Don't you know that the operation of the stone quarry and the Messerschmidt factory was under the direction of Schubert?

MR. O'CONNOR: Same objection.

PRESIDENT: The witness is permitted to answer that particular question by "yes" or "no" due to the fact that it is a qualifying question.

PRESIDENT TO WITNESS: Just answer the question by either "yes" or "no".

Schubert was working in the quarry and the Messerschmidt factory.

MR. O'CONNOR: I ask that the answer be stricken.

PRESIDENT: Objection sustained.

A Yes.

Q Were prisoners beaten in the quarry?

A What period of time.

Q I refer to the period of time you were in the quarry.

A They that often happened.

Q And were prisoners who ran toward the wire, executed in the quarry during the time you were there?

MR. O'CONNOR: The question is objected to as going beyond the scope of direct examination.

MR. BERKOWITZ: The witness has testified relative to Schubert. He said he was in charge of the quarry, and whatever happened under that administration is proper cross-examination.

MR. O'CONNOR: I think his testimony was that Schubert was technical director of this quarry and Hauptsturmführer. The question is vague and misleading. If he wants to ask if Schubert shot anybody, that is allright, but he should so shoot and ask that. Otherwise, it is improper unless under this common design he is responsible for what everybody did. Frankly, I don't know what a common design is, - it has never been explained to me. However, I think the question should go to Mr. Schubert's personal acts and not assume that because he was technical manager, he was responsible for the acts of everyone else in the plant.

MR. BERKOWITZ: It was at Mr. O'Connor's insistence that the witness answered 'yes' to the question that Schubert was in charge of the administration of the quarry. If he is in charge of the administration at the time this witness was there, everything that happened in the quarry was under his administration and as such is relevant matter as to the charge and is proper cross-examination.

(Recess-Cmsn)

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DEFENSE: Inasmuch as Mr. O'Connor has rather recently come into the case, may I say a word in regard to the distinction between the military or security aspects of the camp and the administration of the quarry. The testimony of the witness clearly shows that when he speaks of the administration he means the technical administration.

PROSECUTION: I do not see anything like that in the answer of the witness. He said that Schubert was in charge of the administration.

PRESIDENT: The objection of Mr. O'Connor, is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q While you were at the quarry, were prisoners required to work hard at the quarry.

A I already mentioned that the commando leader at that time had to see to it that the work was done and administered the speed and intensity of the work.

PRESIDENT: The court will adjourn until 0900 hours to-morrow morning.

(Thereupon the court, at 1715 hours, adjourned until 0900 hours, 9 October 1946.)

CA/GI 13 Legal Form No. 8

V-168

MILITARY GOVERNMENT COURT

CASE RECORD.

First Duplicate original

FLOSSENBURG

Case No. .....

~~Summary~~
~~Intermediate Military Court~~
*General

Place DACHAU, GERMANY

Date 9 October 1946
0900 - 1700 Hours

~~Members of Court~~:

WITNESSES:
EDUARD ROEHRNER
ERNST KLEWER
GEORG REIMER
RAYMOND MAURER

Pages 4808 - 4887 Incl Copy

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
  - or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

[redacted]

[redacted]

[redacted]

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

9 October 1946 0900 - 1700 Hours Pages 4808 - 4887 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
EDUARD ROEHNER		4808	4809		
ERNST KLEVER	4811	4819			4819

OLCHG REIMER	4821	4823	4824	4824
RAYMOND MAURER	4826 4849	4860 4865		

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
71	Statement of Maurer	4866	
71-A	Sworn translation	4868	

Camp Dachau, Germany
9 October 1946

MORNING SESSION

(Thereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all members of the court and the prosecution are present; all members of the defense are present, with the exception of Mr. Hall, who is absent on business for the accused; all accused are present with the exception of Buddensieg, Olschewski, Oswalt, Maurer, and Retzleff, who are sick, and Keiling, who is conferring with counsel, the interests of those named accused who are absent being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators present in the court room who expect to be called as witnesses will they please leave the court room?

PRESIDENT: Continuation of cross-examination, Mr. Berkowitz.

EDWARD ROEHRNER, called as witness for the defense, resumed the stand and being reminded that he was still under oath, testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Did you see prisoners in the quarry who were in a weak condition?

A Yes.

Q Did you see prisoners in the quarry who looked starved?

A The food — we got the food from the camp and everyone got the same amount.

Q Will you answer my question?

A It is obvious that the prisoners were hungry and they looked bad.

Q Did you see exhausted prisoners carried out from the quarry in the evenings?

A That could have happened that they had to carry prisoners out of the quarry into camp.

Q Did you see prisoners run to the wire in despair?

A That happened chiefly in 1942. The conditions of work were considerably better in 1943 when the Messerschmitt factory was set up there near the quarry.

Q Go ahead.

A And if prisoners ran into the wire because they were desperate then it is the fault of the commando leader at the time, Gruaber.

Q Did prisoners run to the wire in desperation because of something Gruaber did to them?

A It was well known among everybody that Gruaber mistreated and beat the prisoners. If anyone committed the slightest misdemeanor, for instance, if one had a letter which he received from home, or any trivial matter like that, Gruaber beat him so badly he remained prostrate on the ground.

Q Was Gruaber in charge of the quarry in 1942?

DEFENSE COUNSEL: I object to the question as repetitious. That was gone into yesterday.

MR. BARKOWITZ: No further question.

PRESIDENT: Proceed.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q When you worked in the quarry in 1942 were you starved?

A It is obvious that I was just as hungry as the others, just as starved, because I didn't get any more food.

Q Were you ever carried out?

A How do you mean "carried out"?

Q Because you were starved.

A The food in the camp wasn't any better than in the quarry and it was all the same where I would be.

Q Well, were you ever carried out because you were starved?

A Not me, personally.

Q You got the same food as everybody else?

A Yes.

MR. O'CONNOR: That's all.

QUESTIONS BY DOCTOR WACKER:

Q Will you please clear up a point here, Mr. Roehrner. You stated in the year 1942 you were at various times in the quarry and you told me you were at the railroad detail. Will you please tell me which is correct?

A I told you yesterday that around the 24th or 25th of April, 1942, I went to the stone quarry to work, and in June I went down to the railroad station. I was ordered there for work and I had to repair some stones that had been damaged when they were being laid.

PRESIDENT: Any further redirect?

DEFENSE COUNSEL: No, sir.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

PRESIDENT: Questions by the court? Apparently none. Has the defense finished with this particular witness?

DEFENSE COUNSEL: Yes, sir.

PRESIDENT: The witness will be excused.

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(Thereupon the witness was excused and left the court room.)

PRESIDENT: The court will take a short recess.

(Thereupon the court recessed in place and reconvened at 0920 hours.)

PRESIDENT: Court will come to order.

MR. O'CONNOR: If the court please, at this time I would like to call the witness, Klewer, in behalf of accused No. 44, Schubert.

ERNST KLEWER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Will you state your full name?

A Ernst Klewer.

Q Were you ever a prisoner in a concentration camp?

A Yes,

Q Which one?

A Sachsenhausen and Gross Rosen.

Q Were you living in Gross Rosen the first of the year 1945?

A Yes,

Q When did you leave Gross Rosen?

A The 12th of March,1945, February.

Q Will you please describe to the court the circumstances surrounding your leaving Gross Rosen?

A The camp was evacuated on the 12th of February, 1945, and I was given over to First Lieutenant Kettner as a chauffeur.

Q What happened then?

A Then we drove off with the truck towards Karlsbad.

Q Was there anyone else in the truck with you besides the Lieutenant?

A Women, children, and SS people.

Q How many

A Around forty people.

Q What were the nationalities of those people?

A German.

Q How many women were in the truck?

PROSECUTION: May it please the court, I object to that question on the groundthat it is immaterial to the issues of this case. I didn't object prior because I thought there would be some connection, but as yet there has been no connection with the evacuation of Gross Rosen and Flossenburg. I object to this line of testimony on the ground that it is immaterial.

MR. O'CONNOR: If the court please, this is preliminary and it will be connected up.

PRESIDENT: Mr. O'Connor, the court would like information at the present time if you have evidence to the effect that Gross Rosen is connected with Flossenburg.

MR. O'CONNOR: No, sir, it isn't. I'm willing that it be stricken then.

PRESIDENT: That is entirely up to the defense. If the defense can connect these various matters put before the court the court will be glad to have you continue. But at the same time there must be a connection. The court doesn't want to waste time unless it is going to be material.

MR. O'CONNOR: Yes, sir.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Klewer, were you ever in Flossenburg?

A Yes.

PRESIDENT: Just a moment. The court will give you an opportunity to tie this matter up. The objection of the prosecution is overruled for the time being. The motion to strike will be in order later on, Mr. Prosecutor, if you consider it necessary.

MR. O'CONNOR: I'd like to have the record show that I am withdrawing my offer to have this testimony stricken.

PRESIDENT: All right, proceed.

QUESTIONS BY MR. O'CONNOR:

Q Mr. Klewer, were you ever in Flossenburg?

A Yes.

Q Will you please state to the court what date you arrived at Flossenburg?

A The 24th of February, 1945.

Q And when you arrived in Flossenburg to whom did you report?

A I had to report to First Lieutenant Schubert.

Q And at the time you arrived at Flossenburg were you in custody of anyone?

A Yes, I was accompanied during the trip by a SS man.

Q What, if any conversation did he have with Schubert, at which you were present?

A Outside of Karlsbad the column was separated. Kettner told me that I would go to Flossenburg and that I would not be considered a prisoner any more when I arrived there.

Q When you got to Flossenburg were you made a prisoner?

A No.

Q What were you made?

A I was chauffeur for First Lieutenant Schubert.

Q Where did you live?

A In a civilian barracks outside the camp.

Q Did you register with the Burgermeister?

A Yes.

Q Do you know how you were registered?

A We were all registered together. The whole column of refugees was registered as refugees.

Q Well, what were they in fact?

A They were personal relatives of SS people, women and children.

Q How many people were in that civilian barracks that you lived in?

A Twenty-five or thirty.

Q Were all the people who lived in that barracks relatives of SS people?

PROSECUTION: I object to that question on the ground that it is immaterial and irrelevant to the issues of this case.

PRESIDENT: Anything further, Mr. O'Connor?

MR. O'CONNOR: No, sir.

PRESIDENT: Will you repeat that question, reporter?

(Whereupon the reporter read the question.)

PRESIDENT: The objection is sustained.

DEFENSE COUNSEL: May I have a short recess?

PRESIDENT: Court will take a short recess in place.

(Whereupon the court recessed in place and reconvened at 0935 hours.)

PRESIDENT: Court will come to order.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Klewer, will you state to the court what if anything

Schubert had to do with the registration of these civilians?

PROSECUTION: I object to that question on the ground that it is immaterial and irrelevant.

MR. O'CONNOR: I will strike that and rephrase my question.

PRESIDENT: Go ahead.

QUESTIONS BY MR. O'CONNOR:

Q Will you state to the court what, if anything, Schubert had to do with registering these people as civilians?

PROSECUTION: I object to that on the ground that it is immaterial and irrelevant to the issues of this case.

PRESIDENT: Objection overruled.

A First Lieutenant Schubert was manager of the factory and he had to register all the relatives.

Q With whom?

A With the mayor.

Q Did these people stay on in the camp in Flossenburg as civilians?

A Yes.

Q Mr. Klewer, tell me. Were there six Jewish women who came down in that transport?

A Yes.

Q Were they relatives of SS men?

A No.

Q How were they registered?

A The Jewish girls filled out their registration and then the registrations were sent to Mr. Schubert for his signature.

Q Then what happened?

A Then each of us got a receipt of registration back which proved we had been registered.

Q Where did these six Jewish women live?

A They also lived in a civilian barracks.

Q How long?

A Around four weeks.

Q What happened then?

A After that they were arrested again.

Q By whom?

A We all ate together in the same mess hall with people who belonged to the Mes erschmitt. At any rate it caused a commotion that Jewish women were eating along with us and suddenly they were arrested.

Q What, if anything, did Schubert have to do with assigning them to civilian barracks and registering them as civilians?

A The girls had come the whole way from Auschwitz along with us with another factory manager and this factory manager arranged it with Mr. Schubert that these girls be allowed to stay in the command as civilians, to live there.

Q Do you know if anything ever happened to Schubert for covering them up?

A I don't know.

MR. O'CONNOR: That is all.

PRESIDENT: Mr. McKay?

MR. MC KAY: I'd like to interrogate this witness in behalf of accused No. 23, Lipinski.

PRESIDENT: Proceed, Mr. McKay.

MR. O'CONNOR: If it please the court, I'd like to ask one more question.

PRESIDENT: Proceed.

(Klewer-direct)

QUESTIONS BY MR. O'CONNOR (Continued):

Q Can you identify the man you know as Schubert?

A Yes.

Q Will you stand up and see if you can locate him in the court room?

A Up there at the window (indicating).

MR. O'CONNOR: Let the record show that the witness has identified Schubert as accused No. 44.

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q During the time you were in Flossenburg did you run into a man by the name of Lipinski?

A I was together with Lipinski in Gross Rosen.

Q Did you see him in Flossenburg?

A Yes.

Q What was the nature of your meeting there?

A I was already a civilian employed in the garage in the camp. Lipinski came by and said, "What are you doing here?" I said, "Don't betray me because I have now become a civilian." And he didn't. That is, he didn't betray me.

Q Did you know Mr. Lipinski prior to the time you met him in Flossenburg?

A Yes.

Q Where had you known him before?

A At Gross Rosen.

Q Mr. Klewer, did you know what kind of reputation Lipinski had at Gross Rosen before he came to Flossenburg?

A We stuck together for four and a half years. I wasn't under the work detail of Lipinski.

Q Mr. Klewer, I asked you if you knew Mr. Lipinski's

reputation. I want you to tell me that without going into any details regarding your activities in Gross Rosen.

A Yes.

Q Will you tell the court what that reputation was as far as you knew it without going into any details of Mr. Lipinski's or your activities in Gross Rosen?

A Some of the time we were quartered in the same block together.

Q Mr. Klewer, I told you not to go into the details. I want you to state just what you knew his reputation was.

A In the camp itself he was a comrade.

Q What do you mean by "comrade"?

A Yes, we all stuck together.

Q Did you ever, during the time you knew Mr. Lipinski, hear anything about him so far as his reputation was concerned?

PROSECUTION: I object to that on the ground that it is immaterial and irrelevant.

PRESIDENT: Objection sustained.

QUESTIONS BY MR. MC KAY (Continued):

Q Mr. Klewer, did you know what Lipinski's reputation was with regard to his treatment of his fellow prisoners?

A No.

Q Would you know Mr. Lipinski if you saw him again?

A Yes.

Q Will you look over the man seated behind me and see if you can recognise the man known as Lipinski?

A There he sits (indicating).

MR. MCKAY: Let the record show that the witness has identified the accused wearing No. 23 as Lipinski.

PRESIDENT: Any further direct examination?

DEFENSE COUNSEL: No, sir.

PRESIDENT: Cross-examination?

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You are German, are you not?

A I am now a German, yes. I used to be in the free state of Danzig.

Q At the time that Schubert registered these people will you tell the court approximately how far the Russians were from Gross Rosen?

A The Russians were a half hour away from Gross Rosen when we left Gross Rosen with the column.

Q Approximately how far away were they from Flossenburg?

A No Russians came in there. The Americans came there.

Q well how far were the Americans away from Flossenburg?

A I went off the day before the Americans arrived there, one day before.

Q When did you go off?

A I can't remember the date?

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DEFENSE COUNSEL: No questions.

PRESIDENT: Questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Can you tell the court definitely whether Gross Rosen is an outcamp of Flossenburg?

A No.

Q How far is Gross Rosen from Flossenburg?

A We had to make detours. I was eight hundred meters on the way with my bicycle.

Q You didn't understand the question. How far is Gross Rosen from Flossenburg?

A I can't count that up. I don't know.

Q Can you approximate it?

A If I look at a map, yes.

Q Now I understand from you that you knew Lipinski for four and a half years in Gross Rosen?

A Yes.

Q Well, don't you know during that four and a half year period how he treated the prisoners?

A I wasn't in his work detail.

Q How often did you see him?

A The only time we were together was in the barracks.

Q How often was that?

A Daily.

Q How did he get along with the prisoners?

A There was order in the barracks, peace and quiet.

Q What kind of order?

A The block eldest had the detail there.

Q What was his reputation among the prisoners? Was it good or bad?

A As far as I would know, a good one.

Q Were you a civilian or an inmate when you came to Flossenburg?

A A civilian.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect?

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MR. MC KAY: Nothing further.

PRESIDENT: Recross?

PROSECUTION: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place and reconvened at 0950 hours.)

PRESIDENT: Court will come to order.

MR. MC KAY: The next witness is being called on behalf of accused No. 27, Mr. Maurer.

GEORG REIMER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you state your full name to the court?

A Georg Reimer.

Q How do you spell your name?

A Reimer.

Q Mr. Reimer, were you ever a prisoner in the concentration camp of Flossenburg?

A Yes.

Q When did you go to Flossenburg as a prisoner?

A In May, 1942.

Q How long did you remain in Flossenburg as a prisoner?

A Until January, 1945.

Q During the time you were a prisoner in Flossenburg did you ever come in contact with a man named Raymond Maurer?

A Yes.

Q When did you first come to know Raymond Maurer?

A As soon as I got there.

Q Approximately what month did you become acquainted with him?

A I learned to know him in the stone quarry and in the block. We were quartered in Block 3 and later in Block 11.

Q What was the nature of your acquaintance with Mr. Maurer in the stone quarry?

A We were both stone cutters.

Q Do you know how long Mr. Maurer remained as a stone mason in the stone quarry?

A I can't tell you exactly — until 1943.

Q During the time Maurer was in the stone mason's hall did you have an opportunity to observe how he treated his fellow prisoners?

A Yes. We ourselves were simple prisoners — ordinary prisoners.

Q When Maurer left the stone mason's hall, did you ever have any acquaintance with him subsequent to the time he left?

A Yes.

Q What was the nature of that acquaintance?

A I often visited him in the evening in the block.

Q What block was Maurer living in at that time?

A Block 5.

Q During the course of your visits to Mr. Maurer in Block 5 did you ever have any occasion to notice how he treated prisoners?

A No.

Q During the time you made these visits to Block 5 did you ever have any conversation with the prisoners with regard to

Maurer?

A No.

Q Do you know what Maurer's reputation was in the camp with regard to the treatment of prisoners after they left the stone quarry?

A I didn't hear anything bad about him.

Q What do you mean by you "didn't hear anything bad"?

A By that I mean that when you talk about something you have to have a reason to talk about it, and in this case there wasn't any reason to talk.

Q Do you think you could recognise Maurer if you saw him again?

A Yes.

MR. MC KAY: Mr. Prosecutor, am I correct in stating that you are willing to stipulate that if the accused Maurer was present the witness could identify him?

PROSECUTION: That is correct.

PRESIDENT: Let the record show that it is stipulated by and between the prosecution and the defense that if the accused, Maurer, No. 27, were present, the witness could identify him. You may cross examine.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Maurer was just like all the other capos, was he not?

A Yes.

PROSECUTION: No further questions.

WITNESS REIMER: Just a moment, I didn't understand that. I understood "prisoners".

QUESTIONS BY PROSECUTION:

Q What question was asked you, Reimer?

A I understood, "Maurer was a prisoner like anyone else".

PRESIDENT: Is that what you translated?

INTERPRETER: No, sir. I said "capo".

PRESIDENT: Redirect?

MR. MC KAY: Nothing further.

PRESIDENT: Questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q It has been testified that there were good capos and bad capos. Will you tell the court what you mean by Maurer — was he one of the good capos or one of the bad capos?

A He was a good comrade. How he was as a capo I can't say because I didn't work with him.

Q Do you know how he got along with the other prisoners?

A Well.

Q What was his reputation among the other prisoners if you know — good or bad?

A He had a good reputation with us.

PRESIDENT: Any further questions by any member of the court? Apparently not. Redirect?

MR. MC KAY: Nothing further.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You are a German, are you not?

A Yes.

(Reimer-recross)

PRESIDENT: Does the defense have anything further so far as this witness is concerned?

MR. MC KAY: Nothing further.

PRESIDENT: The witness is excused.

MR. MC KAY: If it please the court, this man has advised me that his father was taken to the hospital this morning and it is urgent that he return home as soon as possible.

PRESIDENT: As the court understands both the defense and prosecution are finished with this particular witness, if the same applies to members of the court, the request will be granted. The witness will be allowed to return to his home as soon as possible.

(Whereupon the witness was excused and left the court room.)

PRESIDENT: Court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

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Camp Dachau, Germany
9 October 1946

MORNING SESSION

(Whereupon the court reconvened at 1050 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Mr. Hall, Mr. O'Connor and Dr. Engelhorn who are absent on business of the accused; all of the accused are present with the exception of Buddensieg, Olschewski, Oswalt and Rotzlaff who are sick in hospital and whose interests are being taken care of my their counsel, and Schubert and Wodak, who are conferring with their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

MR. MCKAY: The Accused Raymond Maurer, desires to take the stand.

PRESIDENT: Maurer, the court understands that you desire to take the stand in your own behalf?

ACCUSED MAURER: Yes.

PRESIDENT: Proceed.

RAYMOND MAURER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Maurer, are you one of the accused in this case?

A Yes.

Q Maurer, when did you come to Flossenburg concentration camp?

A 20 April 1942.

Q From where did you come to Flossenburg?

A From the punishment camp of Bischofsgruen in middle Muthel-franken near Wohnsaidel.

Q Maurer, how many previous convictions had you had previously to the time you went to Flossenburg?

A Twenty-two.

Q Will you explain to the court the nature of thos convictions?

A Altogether, the twenty-two previous sentences include five year sentences altogether. Between the years of 1922-1923, the years of unemployment reigned and because of that, many misdemeanors were committed. I fished and I received several punishments and I had to pay money for it. There were some small punishments. There are only four of my convictions which were more considerable, two of them the cause of theft, and one the cause of resistance, and once because I insulted Hitler and the government.. And I bought a bicycle on the payment plan and I became sick and didn't continue my payments and WAS DENOUNCED TO ~~was thrown into~~ the police because of it. And when I came to court because of the bicycle, my counsel talked to the court and told them not to punish me because I had always come through with my payments on it, but the court went ahead and punished me.

Q When you came to Flossenburg, what color of triangle were you wearing?

A Green one.

Q Maurer, upon your arrival at Flossenburg, what was the detail to which you were assigned to work?

A To the stone cutters.

Q And where did you work as a stone cutter?

A In the stone quarry.

Q How long did you continue to work as a stone mason?

A From the 27th of April 1942 until the middle of November

1943, except when I was sick in the hospital from November 1942 to February 1943.

Q What happened to you after you left the hospital?

A I went back to the stone cutters.

Q Now, what was your position while you were a stone cutter?

A Prisoner.

Q Did you have any authority with regard to that detail?

A No; I had to work just like everyone else.

Q How long did you continue to work in the stone masons after you got back from the hospital?

A From February until November 1943.

Q Then what happened to you?

A The stone cutters halls then dissolved and the Messerschmidt factory moved in. I was supposed to go along with the other stone cutters, but I begged the chief capo not to go along with them, and because I was done for, the chief at that time, Haisler, he said I should not go down to the convalescent ward, he would give me easier work. He decided he would send me to the road building detail and I would be an assistant working there. I said, "That won't do, I can't work any more". I came down into the road building detail. There were two capos, Bauer and Dietrich, and two assistant capos, a Pole and a Russian. The Pole had a nick-name "Cat's Head", and the small Russian, he had the name of Ivan.

Q How long did you remain on this detail?

A Until the beginning of January 1944.

Q What kind of work did you do on that detail?

A Earth was removed and a hall was built there. I had to always come along with the little cars and take dirt out to the dump and dump it there. If a car would jump the tracks, I would help put it on the tracks again, so that the work would continue. When I was there, one of my duties was to write down the names of prisoners who

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were lazy, for the capos Bauer and Dietrich, so that they would be able to take the bread away from the prisoners as punishment, but I didn't fall for that and nobody had his bread taken away, because I didn't write their names, and further I came to the transport detail as an assistant capo.

Q Why did you leave this detail the 1st of January 1944?

A Because I wasn't fit for work there. I was supposed to write down the names of these prisoners so that the gentlemen would be able to take their bread away and have more for themselves and I didn't do it. I gave Bauer's name and asked that he be brought to court but he isn't here.

Q After you went to work in the transportation detail, -- where was that transportation detail located?

A In 2004. The capo's name was Willy Mieof.

Q What connection did the detail 2004 have with the Messerschmidt factory?

A That was the detail which had to serve the halls. Whatever material was needed would be delivered by this work detail.

Q When you went to the transportation detail, what job were you given first?

A I had to go along with the people and get material from the main storage warehouse and deliver it to the different halls as it was needed. The capo was sent with 12 to 15 men to this large stove where coal is burned. It was cold; it was winter, and these people had to serve the halls, deliver material to the different halls. After I had been with this detail for two to three weeks the capo beat a prisoner to death, the name of the prisoner was Knorb, -- the name of the prisoner beaten to death.

Q What was the nationality of that prisoner?

A German. He beat him so badly that he lost his sanity.

He took the man and went into the quarry with him and wanted to turn him over to Jakubith. Jakubith didn't accept him and sent him back again.

MR. MCKAY: Let the record show the accused Wodak has returned to the dock.

(Witness continuing to answer.)

A Jakubith said to him when the man came to him, he said, "You take him yourself. You beat him up; you can keep him." Then he went down to Kuebler with him. I said, "Leave him here", and I went up with him to the clerk's office. I turned him over to the clerk's office and described what Niehof had done. The ~~camp~~ commando chief demanded I write a report about it, which I did. I asked them to describe to me the offense which led up to this all. I wrote it all down and turned it in. In the evening after the roll call, Niehof had to go to the hospital. The following were there: Schauber, Preusse, Schreiber, Willy Rieckert, the capo at the hospital, and the block eldest, Dietrich. These people received Niehof and beat him up until he was bloody. He was beaten with the rubber hose into the laundry. After that Niehof was immediately relieved of his duties. And as far as I can remember, on the next day, a report was sent to headquarters in the camp asking them to forbid Niehof to ever step foot in the stone quarry. That happened. Niehof never set foot in the stone quarry. Anyway, I talked to the leader Fritsch and he said I would have to take over this work detail. I told the commando of the protective custody department I didn't want to do it; I wasn't in any kind of condition to lead a work detail. Fritsch then took this wooden vessel, this wooden container that waste was kept in and aimed it at my head. If he had hit me, I would never have come out again. He said, "I will see to it that I drive the fire out of you". I went out but I didn't aim to get my armband and I didn't report. But on the next day, I went out and took over the work detail. I received an assistant

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ca o whose name was WITTMAN He came from Leipzig. He stayed with me then.

Q How long did you remain as ca o of the transport detail?

A I always was, -- I was still an assistant ca o. I didn't receive any certificate of appointment as capo. The capo did receive a certificate of appointment which told him to go up and pick up his armband and to get such and such a day and take charge of the detail. At this time, the chief capo, Wittman, started taking disciplinary action against such and such a prisoner who would be late for roll call. Then a prisoner was late in the morning or if a capo had described one prisoner as being late, he would send the prisoner to the transport detail. There wasn't any punishment in the detail, the transport commando was an ordinary work detail.

Q You say it was a regular detail, what did you mean by that?

A A regular work detail is one which is not characterized as a punishment detail. It is a regular detail which does regular work and the fact that this detail became known as a punishment company is due only to the fact that the prisoners themselves called it that. There is not any piece of writing you can get in Flossenburg to prove the transport commando was a punishment commando. It was merely the fault of this chief capo, Wittman.

Q Was there ever a punishment command or transport in Flossenburg when you were there?

A When I was there, yes. In 1942 until October 1943, that was the SK, that was the punishment commando.

Q What was the difference between that commando and your transport commando?

A There is not any comparision at all. It didn't have anything to do with my commando.

Q What method of identification of the prisoners on this punishment detail was there which was different from any other detail

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in the camp?

MR. BERKOWITZ: I object to that, may it please the court. They are assuming matters in evidence which have not been testified to.

PRESIDENT: Objection sustained.

Q With regard to this punishment detail that you have just spoken about, how were the prisoners designated for that detail?

A With the punishment company?

Q Yes.

A This was up to the camp. The leader of the protective custody department, Fritsch, took care of that. You can't compare that in the remotest sense with my detail; it didn't have anything to do with my detail.

Q Did you have any connection of any kind, at any time, with this punishment detail?

A The connection with that was dissolved in 1943. I was still a stone cutter. I myself spent a day in this punishment company. The block clerk was supposed to go out there and they sent me instead. That was on a Sunday that the block clerk had to go to the punishment company where they were building a pond. He didn't go so I had to go in his stead. The way it was in a punishment company was this: Some people could stand it for one day; some people for the whole day; and some people could only last two hours. That is the way it was with the punishment company; but in the transport detail, people had it much better than in the quarry or the stone cutters halls. A boy ten years old could have done the work we did in the transport detail with ease; it would have been play for him.

Q You stated that you always had charge of this transport detail. What do you mean when you say that?

A I had charge of that until the end of April 1944.

Q What did you do at the end of April 1944?

A Then I went to the factory manager, Schubert, one of the accused

in this case and asked him if he could not get me off the transport detail and put me on the woodyard detail. The transport detail was not good for me. The small details of the clerical work was unpleasant for me. If I went out with 80 people in the morning I had to report 80 in the evening and there would be sudden transfer orders. People whom the overca o, the chief capo sent to me from C-1, I would personally take these people back to him. I had to transfer the people back into the stone quarry as soon as we didn't have any work to do for the moment. I would like to hear a prisoner come here and accuse me of having sent him into the quarry for one hour. There were days, two or three days at a time when there wasn't any work for the transport detail to do at all. I hid the people and sent up guards and the prisoners would relieve each other at guard duty in order that we would never be surprised.

Q When did you take over this wood detail?

A At the end of April 1944.

Q Where did this wood detail work?

A That was in the factory.

Q Did it have any connection at all with the transport detail, in any way?

A No. The wood detail, the transport detail and a detail from the C-2, which consisted of 15 Russian officers, they all went off with me to work. Whenever the work details were small, they put one to three of them together, and they would all have to go off to work together. I was only responsible for the number of men I shoved off with in the morning. I had to report them back at night.

Q Well, how many men, then, would you take out in the mor ing?

A That all depended. When, for instance, there would be ten to twenty new arrivals, they would go out with me to work in the morning. The old work detail would go on and the new arrivals would stay and I would have to take them to the clerk's office.

If I went out with a certain number of men in the morning then I would have to go back in the evening with the same number of men.

Q How long did you continue as capo of this wood detail?

A Until the end.

Q During the time you were in Flossenburg, what block did you live in?

A The first block I went into was Block 14. That was the new arrival block. Usually we stayed there for two or three weeks. But we only stayed there for eight days because the block was overfilled. Therefore we were scattered among the other different blocks. The people were sent to this new arrival block in order to be instructed as to the ways of the camp and other introductory subjects. Then I went to block 6. There was an acquaintance of mine there who had been there and he asked me what block I was going to. I said, "block 6". He said, "Oh that is the hunger block". We were taken in there. It was a habit of mine to wash in the morning and at night in the washroom. I would suddenly have to hear, "We will surely make your chest and your head smaller". At that time, I weighed 76 kilos and for that reason I just laughed. But I forgot how to laugh. From the time April until the end of November, I only weighed 49 kilos. Food was toodinsufficient and the amount of work that was demanded of you was too much and the other things you were constantly subjected to, so that at the end of November I weighed only 49 kilos. And then I received an infection in the lining of my ribs and was sent to the hospital where I stayed until the middle of January and when I left the hospital, I had a temperature of 39.5. And then I went to the convalescent ward where I immediately had to take a cold bath.

MR. MCKAY: Let the record show that the defendant Schubert has returned to the dock.

(Witness continuing to answer.)

A The next day, I had to suffer an infection of the throat, and I stayed there with this ailment in the convalescent ward with

temperatures of 39.5 to 40.5. I begged them to take me back to the hospital but my request was not approved. Around the middle of February, I was released from the convalescent ward. I got better tolerably, and then went back to the stone cutter's hall. And then a big change took place: I would suddenly move, -- I went from block 3 to 9 to 10, and then back to 3 again. And this change contained until January 1944, until I was quartered permanently in block 5.

Q Did you have any duties in block 5?

A Not at the beginning. It was around June or July when the camp was becoming overfilled.

Q What year was it?

A 1944. And then the leader of the protective custody department talked to the block eldest. They had his approval to approve the best workers of the work details to help them in the blocks. And then my block eldest Karl Grundmann, - he approved me to help him keep discipline and order in wing B of my block 5. But they only lasted, of course, when I was in the block, because during the time I was away at work, I was out of the block.

Q Now, in connection with your duties to help keep discipline in wing B, just what duties did you perform?

A There was very little and very much. There were people there who gathered lice in bottles or in tin cans. Then they found a better bed than they had, they would dump the lice in this bed. It didn't matter to them who occupied the bed, whether it was a German, a Pole, or who it was, the only thing that mattered was if the bed was better than the one they had, and if it was, then they threw the lice in that bed. Then in this block there were people who would go to other beds and steal two, three or four blankets from other beds. They would stuff them into the straw mattresses and wait until the lights were out and then take the blankets out of the mattresses. Whenever the people looked

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for their blankets, they couldn't find them and as long as the light was burning they could not find them. There was a prosecution witness here, a Frenchman, Lerognon, and he said that he went so far with one or two of his comrades as to fill a container full of human excrement and one or two wanted to place it under the bed of a Russian orderly in the dormitory. At night, -- I had several beds in the day room --, we slept outside of the dormitory, -- one night I got out of my bed and came to the door of the dormitory and just at that moment, this Frenchman, Lerognon, came running along to the door. He said the Russians had attacked him. He didn't know what they wanted from him. They had beaten him. It was around eleven or twelve o'clock at night. I called the Russian dormitory guard, one whose name was Vasil, to come to me and I was told that these Frenchmen wanted to put this container full of excrement under the bed. I asked what container and just at that moment, Ivan came along and held this bottle under my nose. And then I didn't know what to do, so then I gave him a slap, but I didn't beat him with my fists, as he says, I gave him a couple of boxes on the ear with the open hand. And others had done it in their pants and in their shorts and put it in the other people's beds. They were too lazy to go to the latrine and relieve themselves, so they would stand in the corner and piss in the corner. I went to the block eldest and described these conditions to him; and I asked him to see to it that better order would reign there. I told him the blankets were already torn in small pieces. I begged him to ask a tailor to work through the night and repair the blankets; and I told him about the conditions, and described how the people threw the lice into the beds. And in wing A, there were about 12 to 15 men who had a red triangle, and there was

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4 or 5 of them who had these famous blue dots. They came from Sachsenhausen. They were the people who were severe politicals. To-day, these people are sitting, some of them, in their court decisions. Now, I don't understand to-day who was the greatest criminals: those with the red triangles or I with the green one. When I told the block eldest about these conditions, he laughed. He said, "That is the way you talk; what business is it of yours, let the people crap out, that is none of your business; the more of them that crap out, the better we will have it." These people can come in here to-day. They can say they didn't beat anyone; they can say that "those are the people who let these poor devils, these harmless devils suffer in the block, let them go to the docks". I used every bit of my time; I didn't have time even on days when the cigarettes were sold in the canteen, to go and get my 10 cigarettes, neither on week days or on Sundays. When we came back from work, during the week, we had to go to roll call and either we would have an air attack during the roll call or immediately following it. And the number of prisoners increased: At the beginning, we had 300 prisoners and then we had 500. And then you had to give out the bread. The following would give out the bread in my block: Eigenmiener, Otto Kusmerta, and Adolf Kuffner, who appeared here as a witness. The conditions became so bad that the block clerk himself had to give out the bread. If the bread wasn't stolen, then people would just use the same number twice. Every day it was helter-skelter and the bread had to be replaced and the people who gave out the bread had to pay for what was missing. And even if there were only 10 portions stolen, they were responsible for these 10 portions. And so we always had trouble, nothing but trouble and annoyance. So I decided to talk over this giving out of the bread. And I said to the block eldest, "We will have to do it the way I am telling you to do it". As soon as the

roll call had ended, we went by for wings A and B, and fell in together, in front of the door. A German guard placed himself in front of the door in the corridor and in front of the window outside of the block. The bread was placed on two tables, - the bread portions were spread out on the tables and the tables were placed in front of the entrance to the dayroom. Then it started. Each prisoner would come in, one at a time, run past the table and grab his bread and have to go into the dormitory with it. And that naturally went fast; in ten minutes, the whole block had received their bread portions. No more bread was stolen and nobody got double rations, because whoever went into the dormitory could not come out again because the guard was standing there. I cannot see any crime in that. When the Frenchman maintains the bread was thrown at him, he probably dropped his own bread and I don't see any advantage in his dropping his own bread. And there can't be any talk about throwing bread. Anybody knows there was always jam or sausage or margarine on the bread and therefore it was impossible to throw it around. It often happened and it probably happened in this case, that the bread slipped out of his hand when he grabbed it at this great pace. But I didn't have any time to fool around with any of the prisoners because I had to see to it that the job was done. And then he maintains I embezzled some jam. If I had wanted, I could have got hundreds of pounds of jam for myself. And then the orderly already had the bread laid when we got back in the evening. He had got back and gotten it for us. The jam was already spread on the bread and therefore it was this way when I got there and I could not embezzle any jam. A number of these incidents which I just described, -- the fact that some people got a few slaps in the face, I don't deny, that I admit. That I admitted during my first interrogation; but I never, never beat any man with a hard object. He maintans that I beat up a Russian in the dormitory with

a foot-stool made of oak. That is not possible. You could not even beat anyone with your hand. The corridors were about this narrow. Each corridor was so small you had to go like this ....

Q Estimate the width of the corridor in metres.

A 35, -- at the most 40 centimetres wide.

Q Will you explain to the court what, if anything, you had to do with the packages of the people who lived in wing B of your block at the time you were helping the block eldest maintain discipline?

A It was the same thing with these packages, -- the same way as with the bread. People stole, stole, stole, -- every day they would steal and steal again. Those Germans of us who were there, we would always be accused of having stolen packages. The foreigners would accuse us of stealing them so that gradually we began to be afraid. Because at that time, when you were accused of something, never did they ask you whether you did it or not. You would just go ahead and get beaten. I asked the block eldest to let the block clerk exchange badges with me in the dormitory. I would take his badge and he would take mine. I got to bed one night rather late, around one o'clock. In the morning, a report was made to me that two lockers had been overhauled and they were not lockers with packages; they were the small lockers of the Russians who had advantageous positions in the camp and were people who used their positions to save themselves up a little bread and other things. It was said, "The workman around Maurer sleeps in the day room and there is still some stealing in the dormitory". That was an embarrassing situation for me. The next day, I told the people they could knock-off work earlier. I went to my bed, but instead of sleeping, I stayed awake. I was lying in my bed when all of a sudden, the door of the dormitory opened and somebody sneaked out. I was lying in bed like this, with my eyes open.

I saw him standing there in front. I began to snore as though I was sleeping. He went out and stayed out there awhile and then came back and stood in front of me to see if I was asleep or not. Then he went back again. In the middle of the day room there was a stove, and in the space between this stove, this fireplace and the wall, there were two lockers set up. It was on the right side. My bed was standing there in the left-hand corner. All I could see was how he disappeared behind the lockers; I could not see what he was going there, but nevertheless, I stayed in bed and waited. A few minutes went by, then I heard loaves of bread falling on the ground. I waited ten minutes. Then he came on sneaking along. He had stuffed his shirt full.. At this instant, I jumped out of bed and took a hold of him. Then he had an iron which cabinet makers use and a bunch of keys on a loop and ring. I took these things away from him and then I took out what he had bundled in his shirt. They were things which came from the packages, bread, sausage, fat, cigarettes, -- I put them on the table. And then I boxed his ears a few times and sent him to the block eldest. The block eldest said, "Let us make a report on him". I didn't agree with him there though. I said, to the block eldest, "We don't want anything to do with reports. He said, "Yes we do". And I can swear to this court here that if this Russian had been reported, he would have been dead sure as hell. There wouldn't have been a chance for him because that was the robber who had been robbing the lockers for a period of months, and all he got out of it was getting his ears boxed a few times and had to stand up in front of a chair for a few days, early in the morning before we went off to work and in the evening after roll call until we went to bed. But again, it wasn't I who could order that; it was up to the block eldest. After three days, a Yugoslav came to me and said they had stolen his new slippers. He had slippers made of camels hair. He had one of the highest numbers in the

camp. It was number 46 or 48. He told me they had stolen his slippers in the dormitory. I went over to wing A and told the block eldest about it and he said, "What can I do about it, I can't get them back if they are stolen." I told him that after the roll call, so from there he could go to the clerk's office and report this. It was during the night, between Saturday and Sunday that the shoes were stolen. The block eldest came down in the morning and gave me a list of people. He had to tell me about the personnel strength in his block, and then my block man who told me about this incident of the shoes reported at 9:00 o'clock in the forenoon, the shoes were there. And now I can say that the man who had stolen these shoes was the same man who had robbed the lockers; it was a Russian officer, 25 to 27 years old. He didn't even get one box on the ear because of this theft. Instead of that, I told the block eldest he should be transferred to another block. He was transferred and went over to block 8. And I could tell you about hundreds of such cases. And when the food was given out, the Frenchman who appeared against me and accused me of beating them with a soup ladle and a rubber hose, -- there was not such a thing as taking food away from anybody else. Food was so much needed and there were so many men. The people came there to get their food, and one man after another would come over to the pot and take his food. When the food was given out, the block eldest and the block clerk were there. The block clerk stayed with me. The block eldest stood in wing A, with his people. I would like someone to show me how I ever gave out food with one hand and held a metal ladle and a rubber hose in another hand, and give out food. It all had to be given out between 25 and 30 minutes. It is true that a rubber hose was used during this time but it wasn't I who used it. They were the people who were supposed to keep order: Kuefner, Myer, Kussienitz and Kuback. I was only put to giving out food because I had worked in the kitchen two or three times and I was able to do it most efficiently and most quickly. And I would think twice before I took a soup ladle and beat with it. The only time

I gave out food at noon would be on Sundays and we were always dressed on that occasion. I had a grey, black and brown silk shirt, blue trousers, and dressed like that I would give out the food; and now here I was giving out this Sunday food. The food on Sunday was pretty good, it would consist of noodles, potatoes, peas. Look at it from my point of view. I wouldn't beat anyone with the soup ladle because of the clothes, I would have dirtied myself. Therefore, it is impossible I could have struck anyone with the soup ladle. It is true I did give many people a slap on the ear, and at the time when they were getting their food too. There was always somebody who had to be first. And you don't have to have imagination to visualize how it was: There were Frenchmen, Belgians, Yugoslavs, Poles, Russians and Italians, altogether in groups of three and four hundred, and sometimes more than five hundred men at one time.

PRESIDENT: The court will be recessed until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Berkowitz and Mr. Pinter, who are absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. Hall, who is absent on business of the accused. All of the accused are present with the exception of Buddensieg, Olschewski and Oswalt, who are sick in the hospital and whose interests are being taken care of by their counsel. If there are any spectators in the court room who expect to be called as witnesses in this case will they please leave the court room.

PRESIDENT: Continue on direct examination, Mr. McKay.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q Mr. Maurer, when did you leave Flossenburg?

A 20 April, 1945.

Q Will you explain to the court what happened to you prior to the time you evacuated the camp?

A I came to the camp police the beginning of April. It was the 2nd or 3rd of April, I am not sure about the date. It often happened in the year 1944 that all German citizens had to fall in on the roll call square. I was never on the roll call square and I never reported, not even the last time when I came to the camp police until the camp eldest Uhl came to Block 5 and came and got me and Kuffner who appeared here as a witness.

Q What happened to you then?

A The next day we went out to work again and they came

and got us in the factory in the quarry. We came to the clerk's office and we were taken into the camp and given uniforms. Then after that for a few days we were off to work with our details and then they came and got us and came back to camp, and we had to go to the block, pack all our things, and get ready. We came out into the SS barracks.

Q How long did you stay with the camp police?

A Until I reached Roting.

Q Then what happened?

A We stayed there for a few days and were trained in the use of rifles; loading rifles, putting on the safety and de-safety-izing them. Nobody told us that we would be used in the evacuation. Commandant Koegel told us that the reason we went to the camp police was that we would be placed out 25 kilometers in front of Flossenburg. A camp would be erected for us there and we would stay there until the Americans came and then we would do as much damage to the enemy as we could. Somebody mentioned the fact that we would need identification papers or passports of some kind. He said: "You don't need them," and he said: "The life that you have behind you has been broken off and if things come to the worst you can turn into were wolves." But nobody knew that the camp was going to be evacuated or that we were going to be used by the evacuation.

Then we marched away. I don't know the exact date of it; the 10th or 12th or maybe the 15th. We got everything for the march; packed all our things and marched off. We thought that we were coming there to this place. We marched about 25 to 30 kilometers, it was just before we got to Bleistein. We stayed there lying in the forest. The word went out that we would not march

any further, that we should put up our beds. We broke boughs off the trees and made beds out of them. At 11 o'clock in the night they blew the whistle and we had to fall in again. Then the word went around and we packed our things. The word went around that the Americans had gone away again and we could go back into the camp, and then it began to occur to us why we marched out of the camp. The same night we returned to the camp. It was around 2 or 3 o'clock -- I don't know exactly any more -- we went back to our blocks again. Everything had been plundered out of it. We fixed up our beds again and stayed there until the 20th of April and then the word went around that the camp was to be evacuated and we were to be put into action to accompany the transport. Only one day were we allowed to go out. All the other days there was a curfew. We could not leave the camp for the camp police, that is, but at 9 or 10 o'clock in the night we had gone by the officer's club and gone through the potato bins and got out. Flossenberg had been away 2-1/2 hours and there were many missing on the day that we were supposed to evacuate. And then we met some SS men on the outside. They said we had to go back to the camp immediately; the camp would be evacuated. We had to get back there. We went back into the camp to pack up ammunition. Only the first ones got ammunition; the last 30 men did not get one single cartridge. The word went around: 'Pack up some more from the others who have more than you do.' Anybody who wanted to get it could get it from others, and if you did not have any interest in it you did not have to get any.

The next day in the night the evacuation started. The marching order was as follows: Block 1, Block 2, Block 3. We all sat around and drank wine because we could buy wine in the officer's club. You could even buy a can full containing 10 litres and you

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could buy cigarettes a thousand at a time. You could even pack your whole knapsack full of them, so on this same day we bought all we needed and drank our fill. In the afternoon around 1 or 2 o'clock they threw us out of the officers' club. When we came down to the roll call square in front of the SS square there were a number of SS people standing there. Block 3 had already marched away. A top sergeant was standing there. A first sergeant. A sergeant, and we two camp police, I and one other camp policeman, the one with whom I had drunk. We went out to the gate and then the top sergeant said: "Well, fall in behind Block 3 which is marching. We will only go so close to them, however, so as to be safe if the commendant or if the adjutant comes along and checks us. We will say we are marching along with Block 3."

It happened that we would be 5, 6 or 7 kilometers away from the marching block, and when they stopped to make a break we would come up together within a distance of several hundred meters and we would not fall in behind them until they started off to march again. That is the way it went until Roting. In Roting the Americans came and everybody escaped and everybody on hand or foot ran off. That was our chance. We could not escape any earlier. They threw it in my face earlier that I could not escape before, that's why I did not. I really emphasized that we did not have any identification papers, no means of identification at all and it was not possible to escape until everybody was escaping. I went with the same people who were with me until I was an hour away from Straubing and that was the first time I left these SS people with the camp police and we went into Straubing. I stayed 5 days in Straubing.

Q. When were you arrested by the Americans again?

A There were 2 different arrests, the 6th and 7th of July.

Q What year?

A 1945, and the first of May I arrived in Regensburg. I reported there for a few days with the police. I also reported to the American authorities. I went there because of my house and my wife. My wife had also been in the concentration camp and my children were in an institution. The furniture had been confiscated and the apartment had been rented. There was not anything left. I made several applications to try to get a house and some furniture but I did not get anything. I then went to the American authorities and the officer said: 'Maurer, you are man enough to take care of yourself and get yourself what you need in view of the fact that you have all these years behind you,' and that was the end of the story with me there.

Then I went to the office where you get your houses. I reported everything there. I got a house and the welfare association gave me some of the furniture I needed. My wife arrived after 10 days, then we went and got the children out of the institution.

I was not home on the 6th of July. I came home at noon and my wife told me that 5 Polish Jews had taken over a room just opposite of us in the same corridor. They were former prisoners. I have to correct myself here -- it was on the 5th of July. On the 6th of July I went out again in the morning and came home again at noon, and my wife told me that a few of the former prisoners had been hanging around her door. They wanted to have some breakfast from her. My wife said that we had both just gotten out of concentration camps and we just got our children out of the institution and that we could hardly make out ourselves with our

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ration marks. They slammed the door so hard that my wife thought the windows would smash. When I came home at noon my wife told me about this and I said: "Leave them alone."

In the afternoon at 12 o'clock they had me arrested and the pretense was that I was supposed to have beaten 25 or 30 prisoners to death in one day. Two of these 5 said they were from Buchtenwald and the others from Auschwitz. I came into the Military Government at Steinbred in Regensburg. First the 2 Polack Jews came in. They were interrogated and they had to leave and then I came in. Then I went out and the 2 came back in again and then they brought me in and confronted me with these two. The officer asked one of them what he had personally seen with his own eyes and he could say it under oath. He said that he had not been there in the camp; he had been out in the work detail. The other one said he had seen me kick a few other people at times in the rear, and another time he had seen me give a prisoner a few boxes on the ear. The officer sent these two gentlemen away immediately. He said to me: "Maurer, you can go home of course right away. We don't dirty our fingers with such things." He said: "Come back to me at 9 o'clock and write down the way things went on at Flossenburg."

If I had had a bad conscience that would have been my chance to escape, but I was not conscious of any guilt in the least. At 9 o'clock I came to Sternbred and wrote until 12 o'clock. At 12 o'clock the officer had to go to lunch. He said I should finish my work in the afternoon. At 2 o'clock I came back and I continued writing. I finished all my writing by 3:30. I gave it to the officer. He took a look at it and he said: "O.K. You can go." I went to my sister's apartment and stayed there awhile

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and then I went back to my apartment. Two of these 5 Polish Jews were standing there in front of the house door. I went up to my apartment and conversed with my wife. It could have been 5 or 10 minutes. I did not even take off my clothes. The bell rang. I went out and these 5 Polish Jews were standing in front of the door with 2 MP's. They asked me whether I was the man. I said yes. They told me I had to come along. I told them I had just gotten back from the Military Government from Steinbred 5 minutes before and they made me understand that did not make any difference. I had to go along anyway. These people went to another MP station -- not the one to which I had gone on the 6th of July but to a different one -- and there they made our statements still worse than they did on the 6th of July. I was beaten up there. They placed me up against the wall, they threatened me that they would shoot me. There was a tall civilian there, I don't know whether he was a Pole, a Russian or a Frenchman. He wanted me to stand with my face against the wall for one hour and a half with my face against the wall. One of the MP's asked him whether I was the man. He said yes. Then I came out. We came out and the captain of this post was standing there on the road when I came out. This man from the MP had to explain to him what was going on here. He made a face and reached for his gun, his pistol.

Then I went away and ended up in the police station in Regensburg until Monday. Monday I went away to Straubing. It was on the 11th. I stayed in Straubing until the 13th of July. Then I left there and went to Moosberg. We arrived in Moosberg Friday afternoon, the 13th. We went into the new arrival barracks. I stayed there until Monday morning. Then we went over to the reception barracks. There we had to undress, take off our clothes and all the things we had with us which we did not need were removed from us, and then it started.

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I had to stand still at attention. I got a few blows in the face. Somebody stood in back of me and knocked my head forward as fast as it went back. That lasted for about 10 minutes. Then I had to get dressed again. Then a lieutenant took hold of me and led me into the reception barracks. He introduced me there as a murderer. For about a quarter of an hour then I was beaten up. Then an officer came with an interpreter and asked me whether I had ever beaten a man to death. I said: "I swear to you I never beat a man to death." The officer then went away and I had to stand still at the table. I was standing there and 2 more came. One of them was called Burkhardt and the other Weichser. This Burkhardt at present is in the special camp here. This Weichser also had to stand at attention at the table. He fell down from the table, then Burkhardt fell down. I said to myself: "I am going to stay here even if it becomes night."

I came down then and three of us had to go into the arrest building on the double. There were 2 former prisoners of the concentration camp, 2 former handymen that were there in the arrest building. They asked me whether I had been a prisoner and I could go. I went to my cell. I stayed there one week. On the 23rd I came out of the arrest building and ended up in the camp. The 31st of July I had to go to the gate. Then the lieutenant came, I don't know exactly who it was, that had charge of the bunker. He asked me what was the matter with me. I said: "I had to come here. I don't know what's the matter." He went inside the building and asked about me. When he came out he said I had been released and could go home to my wife. I did not believe that. I asked him 4 or 5 times about it and he repeated it and insisted on it: "Yes, you will be free."

I came back into the penitentiary and stayed there until the 9th of October, and a major interrogated me there and he had to write

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down what I had been in Flossenburg, the way things were carried on there. He said I should write out to the best of my ability for my defense because it would be presented to the court, which I did, and then on the 9th of October I came here to Dachau -- it is a special camp.

On the 4th of January I had my first interrogation here. Mr. Berkowitz did it.

Q How many times were you interrogated here?

A As far as I can remember, twice. The first time with Mr. Berkowitz and the interrogation did not last very long. I was interrogated before some time, I then took an oath. Then I was interrogated again and then he said I was a liar, that I could not speak the truth, and immediately I went to the arrest building for solitary confinement. After a few days I came back again. I came to an officer. He asked me about how I came to the camp in the first place, what I had done up to the time I went to Regensburg and got home again to my house and wife. When we were finished I asked if I could not be placed with the other prisoners and get out of solitary confinement. I did not know any reason why I was put in solitary. That was approved. After 5 days I had to leave the others and go back into solitary confinement and until the end of March I stayed in solitary confinement. Then everybody was thrown together in one pot. Then there was silence just before the trial started. Then 20 to 25 men at a time should be brought out and into the little court room up there. Each one of us got a number, and then the prosecution witnesses which appeared here came. They were all foreigners. They had to come among us and pick out the people who they were supposed to identify here. The first time nobody recognized me. The second time nobody could identify me

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either, up until the last man. Mr. Berkowitz was busy gathering the pieces of paper and then one man went away and wrote down my No. 18.

The next day I was brought to Colonel Shaw. I was asked whether I would testify, whether I would answer his questions or not. I said yes. Then he accused me of having beaten a Russian to death with a club one meter and a half long with a diameter of 15 or 20 centimeters thick. I had drowned people; that is what he said. To say it briefly, he accused me of being a murderer and then he accused me of having a small beard. He asked me how I ever acquired this Hitler mustache. I said I did not wait to get this beard, I did not wait for Hitler to get this beard, my father had worn a beard before then.

Then he asked me how I got hold of this shirt (indicating the shirt he was wearing.) I said that at my interrogation the 7th of July I had only had one shirt and that had fallen apart and so I went to an ash barrel and took this shirt out of the garbage barrel, sewed it together and made it ready for wearing. 'That isn't the kind of shirt murderers should wear,' he said. I said: 'I am not a murderer,' and he said: 'We will see about that.' He asked me how I got ahold of these trousers, and I said I only had one pair and that pair went to the dogs and I got this pair as a gift from a comrade in the bunker. He said I did not have any right to wear these things. I said if I had anything else to wear I would not wear these, and then this man came. He introduced himself and said there had been a Polish prisoner and that in the last days they had made him a Volksgerman.

Colonel Shaw asked him whether he had written out this No. 18. He said yes. Colonel Shaw asked him whether he knew me. He said no.

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Colonel Shaw said to him: "The man's name is Raymond Maurer. He was a capo in Flossenburg. What do you know about him?" And he said he saw me at the evacuation marching with Block 4. He said that I had shot many people to death, that I had buried many people alive and then I had taken the shoes off of the dead people; that I had a red passport and that I had worn an arm band on my arm. I told Colonel Shaw that in this minute, the same minute I was standing here with him, he could prove who I was and where I had been. I said that that was a figment of his imagination completely lied about. He said that he would bring me to court, that I was a murderer and as such he would bring me to trial. The same man was still over here in the waiting room when the prosecution was finished and did not want to appear here against me but against Lipinski. It is my opinion that he saw the accused Hoinisch after he had made his testimony here. This man was a baggage carrier of Hoinisch who left the camp on the 17th of April. Then there was another witness I could have had who was marching with Block 4 and can prove that he was never in the area around Block 4 in the march and I was never seen there. And the sergeant of the SS who was there with me then who is the accused *MOHR* who is sitting here in the dock now and he stayed with me until we were within one hour's distance of Straubing.

Q Do you know this French captain D'Argenlieu who testified against you?

A What is his name?

Q D'Argenlieu.

A I don't know him personally.

Q Had you ever seen him prior to the time he testified here?

A No.

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Q Do you recall the witness George Buhler who testified against you?

A He lived in Wing A of Block 5.

Q Did you see him in Flossenburg prior to this time?

A I cannot remember that exactly. I remember him only as being here in the court room and I assume that he was the one who was quartered in Block 5.

Q Did you know the man Karl Schrade who testified against you before he testified here?

A Yes.

Q What was the nature of your acquaintance with him?

A I had one single personal difference with Schrade.

Q What was the nature of that difference?

A As I already explained to the court, I had to lead the transport detail and the wood yard detail out of the camp into the factory and for that period of time I had to be responsible for the prisoners. One day I got three Italians. In the course of the forenoon -- it must have been around 9 o'clock -- the capo Tillmaier said to me one man was missing. I immediately told the work detail to fall in. I read off the names and numbers and it turned out that one of these Italians was the one who was missing. I said he should go back, the people should go back where they came from and I personally would look for the man. I looked in every hole in Department 2004. I searched every hole and I came down into hole 3 which is in the area around quarry 1. Karl Schrade was working in the office of this hole, and the capo George Steiner asked me what I was looking for there. I said: 'An Italian of mine is missing.' He said: 'There is one up there in the office.' I went up to the office and there the Italian was.

(Shurer-direct)

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He had his hands raised in the air. He was dancing around and singing as though he were amusing himself. I came in and boxed the Italian's ears. He plunged out of the door and Schrade came after me. He said I did not have the right to beat anyone and that he would punish me for it, and I said: 'You can go ahead and try it if you want to.' He said: 'We will talk about it somewhere else.' I said: 'Schrade, if you need a boy or if you need someone who is going to do dances for you pick him out of your own detail and not mine,' and that is the only trouble I had with Schrade. It is automatically proven that Schrade lied there.

The end of April, 1944 I took off from the wood yards. In July, 1944 Schrade became hospital capo and he said that many people came out of the transport detail and told him they had been beaten by their capo Maurer. That too is a lie. That alone is a lie because they had their own capo. I did not have anything more to do with it and therefore they could not have been beaten by me.

Q Did you ever know Mylas Kuchera who testified against you?

A I had one argument with Mylas Kuchera.

Q What was that about?

A Kuchera was working in the office in the quarry in the winter months between 1944 and 1945. I was only allowed to give so much coal and coke out as was authorized for me to give out by the administration. It was never enough for Kuchera. He could never get enough although I gave him three or four times as much as he should have gotten. Before that we had a shortage which really isn't worthy of mention. One day I saw two Russians coming out of the wood room which was up above the workshop. I and the administrator were the only ones who had the key to this wood room. I went down and asked the Russians how they had gotten in there.

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They said that Kuehera told us we should open up the door and get wood out of there. I of course did not know what Kuehera was talking about and they said he was in the office there. Kuehera had observed all this because it had taken place near his window, and came out. Then we had a very violent argument. We did not mess it up; we just spoke angrily at each other. Then the Russians left. They had broken the lock. We could not get any more because there was not anything else there. That is the only trouble I had with Kuehera.

LESAK ~~Letzner~~ was two years in the quarry. He did not know so much about me and he comes here now and says that I had beaten up a Pole in the quarry and kicked him. He did not know the Pole; he did not know the number of the Pole either, and he did not see the Pole any more after that. I should prove that I was not working in the quarry for one minute, not one minute, and besides that it is absurd because VAKUBITH ~~Kubisch~~ did not allow anyone to hurt his people there in the quarry.

Q Why do you say that?

A Because it just did not occur. If another capo hurt one of my men in my detail I would have beaten him up so badly that he would not have known what was going on. I can give you a small example in this regard although I myself am accused here in the dock. But I will give you an example anyway. At the beginning of 1945 I was seated there in the workshop next to the wood yards. Schubert, Max -- not this Schubert here -- came into the room, plunged into the room in a hurry. He said that I was a lousy dog, that I was just sitting around the room and not working. He said in the wood yard they are hauling away the best and biggest wooden poles. I came out and I saw the prisoners bringing this wood back

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again. I asked them where they were working, and they said in Hauser's work detail. I let these people go. I did not have any interest in these people and I called their capo Hauser. Now I could have beaten up these prisoners who had come and gotten the wood. No, I did not beat them. I let capo Hauser come and I beat him up in the room. If I were such a man that I had it in for the foreigners and wanted to beat prisoners I could have beaten these prisoners then as you see I had the opportunity to do it.

Here in the special camp I was denounced and scolded by a former prisoner. It was in Block 30 here in the special camp, there were 35 or 40 former prisoners of the camp there. The name of the prisoner is Schaulmeister. He is sitting here in the special camp. He said that I had spotted the foreigners, that I only had it in for the Germans. This reproach is partly in order and partly not. It was in Block 5 the witness Ruchera here has proven that everyone wanted to get into Wing B and not Wing A, that people in Wing A had the red triangles and no individual prisoner could move around freely or sit at the stove like they could at Wing B, and they could not do any cooking in Wing A either like they did in Wing B. I divided the time up and said that the Germans can cook until 9 o'clock and after that the foreigners. There was one there, he was an Austrian, formerly he had been a German. He took advantage of the opportunity and robbed two Russian prisoners of war. He took their bread out of their lockers. He said: "Well, if a German is starting to steal now we will have to do things differently," so he drove the Germans into their beds and let the foreigners cook and take care of their things. Every day I would have all the windows blacked out with the express purpose of letting these people do their cooking and take care of their private matters. Daily I

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had trouble with the block eldest Gruntmann. It did not suit him either that I was doing this and that is the way it went there with those people.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess.)

(Whereupon the court reconvened.)

PRESIDENT: The court will come to order. Continuation of direct, Mr. McKay.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. McKAY:

Q Mr. Maurer, do you have anything that you want to tell this court with regard to the charges that have been made against you? Make your remarks very concise.

A Yes, sir. I could say, as I have emphasized before, that what I did in Block 5 no two men out of a hundred could do for their fellow prisoners. By risking my own neck I did bring hundreds of thousands of pounds of coke and coal into the block. Fifty or sixty cubic meters of boards I brought into the block. I brought three large barrels of paint, they weighed 100 pounds each. I would surely have been dead, they surely would have hanged me up immediately if they had caught me doing that. The only reason I did this was because I wanted to help my fellow prisoners there in the block because they did not have anything and the only way they had anything was through me when I brought it in. I delivered these boards and paint to the accused Lipinski, the camp capo, because he told me that he had to do this and that he had so much to do and no material was put at his disposal for this work. He often got bread portions. Now Lipinski should say whether I touched this bread, he

should tell you who had it. So the way the bread was, that was the way the prisoners received it in the evening, and when these three Frenchmen in Block 5 accuse me here, then that is out of order. It is impossible to please all 5 or 600 men when they are all in the same wing together. It is not right when the Frenchmen said I had stolen packages. Every two weeks I got my own package. Every month I got my own money by mail. The witness Kufner should have verified here how often it was that I sent people away from the table and said they should look after themselves and eat their own food when they wanted a piece of food or sausage or margarine or jam. I always kept 10, 12 or 15 large loaves of SS bread on reserve. The two men who scrounged that up were under my command, not any work detail. They had to take care of getting bread for the SS civilian canteen which was outside of the camp where the airplane factory was. If they were supposed to get 70 or 80 kilos of bread then they would get 100, and if they were supposed to get 100 then they would take 115 or 120 loaves. That happened twice a week and the bread came to me. We three had bread all year long, and when the witness LEROPNON comes here and says that whenever he got a package with bread in it he had to hide it or else I would steal it from him, he was right when he said that bread was taken from the lockers, because in this block we had a day shift and a night shift. I was there at night but I was not at home in the daytime and the lockers which contained the packages stood open until evening when I came back home again, and when the people came home at night and looked in the lockers it had been stolen. They cannot put the finger on me, because I was out working all day long the same as they were. I myself caught the block eldest Sorentmann and the block clerk Wunsch when they were stealing packages.

It certainly is a lie from Schrade when he says in July he met people in the hospital from my work detail because I was in the wood yards, and nobody can describe the life in a concentration camp even if 2,000 witnesses appear here. I have a head of flesh and not of wood, and whenever anyone committed a misdemeanor he would get a few blows, but I would have reported him and then he would have gotten off worse. If the prosecution can bring a single man here and this man says that he has a scar a centimeter wide and can prove that I gave it to him, then I beg the court for a death sentence.

Q Is there anything else?

A No.

PRESIDENT: Mr. McHaney, you may cross examine.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You admit, do you not Maurer, that you slapped prisoners with your hand?

A Yes, sir.

Q But you stated, did you not, that you never beat a man with a hard object?

A Yes, sir.

Q Tell the court whether or not you beat a man with a rubber club.

A Yes, sir; with a rubber hose, not a rubber club. There is a great difference.

Q Describe the rubber hose that you used, please.

A They are the same kind of rubber hose that you use in America. They are the rubber hoses that carry the air from compressors. They have a hole on the inside and have a diameter of

half a centimeter. The hole, or space inside the hose, is so big that you could stick your finger into it.

Q And how long was it?

A That all depends. I have one about 30, 40 or 50 centimeters.

Q How long was the one that you carried with you most of the time?

A I never carried one along with me.

Q Where did you keep it?

A It was out there in the tool room and in the evening when we came back to the block the block clerk would have it lying on his table. Kiski was my block clerk and he himself could verify whether he kept it.

Q And was that the same hose you used in the block that was used also on your detail?

A Yes, that was the same hose, they all came out of the quarry.

Q It was the same identical piece of hose that was used both in the detail and in the block, is that correct?

A Yes.

Q You carried it from the detail to the block and from the block to the detail, is that correct?

A You did not have to do that, Mr. Prosecutor, because there was one out in the quarry and you could get 20 of them if you needed them.

Q Will you answer my question?

A I never carried a hose back and forth. I must mention here that that was forbidden.

Q It was further forbidden for you to beat a prisoner too, was it not?

(Manner-Gross)

A Yes, it was forbidden.

Q But you did it, didn't you?

A Yes, yes because I did not turn the prisoners over to the other people. I could have turned them in. I don't know what you consider better, Mr. Prosecutor, whether to give a man 4 or 5 slaps with a hand or to turn them over to the authorities where they can get 50 or 60 lashes.

MR. McKAY: I object to the manner in which the prosecution put the last question to the accused. It was wholly improper.

PRESIDENT: The objection is overruled. The court sees nothing wrong in the manner in which the prosecutor is asking questions.

QUESTIONS BY THE PROSECUTION:

Q You kept rubber hoses at the detail and you kept rubber hoses at the block. Is that correct?

A I did not keep them in the block. The block clerk kept them in the block. The hose in the block was none of my business.

Q How many hoses did they keep in the block?

A One, and when it was missing the block clerk would go and get himself another one.

Q You beat prisoners in the block with a rubber hose, did you not?

A I never beat a prisoner with a rubber hose in the block.

Q Where was it you beat these prisoners with the rubber hose?

A Several times I beat them there at work in the factory.

Q This man KUFFNITZ and this man MEIER used rubber hoses for beating the prisoners in the block, did they not?

A No. If at any time a man was standing at the side of the block and next to the block with a rubber hose in his hands at such

times when the prisoners were congregated there for example when the food was given out, he would have to see to it that the people would stand orderly in line, not to beat them.

Q He maintained discipline for the purpose of beating them if necessary, did he not?

A Yes, if it was necessary, yes.

Q That was one of the duties of Meier, Kuffnitz and Kubart, isn't that true?

A Yes.

Q In other words, they were charged with the duty of maintaining order and discipline in the block, were they not?

A If you don't want to go into the basic details of it, yes. If you did not want to go to the dogs, yes.

Q If you did not want to go to the dogs, yes, is that correct?

A Yes.

Q You were also charged with that same duty, were you not?

A I had it also.

Q Where did you get these boards that you brought into the block?

A I got them out of my wood yard.

Q Where did you get the coal?

A Also from the wood yard.

Q Over what period of time did you bring this quantity of wood, coal and paint into the block?

A Period of time? What do you mean, months?

Q All right, months. How many months was it?

A That was between 1944 and 1945.

Q Did you bring any of that in during the summer time?

A Throughout the summer until the beginning of March.

(Maurer-cross)

Q How many capos did you ever beat for beating your prisoners?

A Who beat my prisoners?

Q Yes.

A Besides Hauser I only had one other case.

Q Who was that?

A That was back in the paint shop in Department C-2. There was a Russian officer there, he had taken paint away from the man and had beaten him up and then I came. The Russian officer was playing the part of a foreman there at that time.

Q How badly did you beat Hauser?

A I beat him also. I polished him off with a few boxes on the ears and the case was closed for me. That is the way it was, Mr. Prosecutor with us then; it was a matter of life and death. The strong ones would beat the weak ones. If they thought they were stronger than another, they would attack him.

Q You were pretty strong, were you not, Murer?

A I had to be; I only weighed 49 kilos.

Q You acted like all strong capos, did you not?

A How I acted, whatever I did I did from my heart for my fellow prisoners. I could have done it the same way as these gentlemen with a red triangle said that I did. The prisoners should crap out, that is not what we did. We said no prisoner needs to crap out, we should help each other.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed.)

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(Thereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all personnel of the court are present, all personnel of prosecution are present with the exception of Mr. Berkowitz, who is absent on business of the prosecution. All personnel of the defense are present with the exception of Mr. Hall, who is absent on business of the accused. All the accused are present with the exception of Buddensieg, Olschewski and Oswald, who are sick in the hospital and whose interests are being taken care of by their counsel. Any spectators in the court room who expect to be called as witnesses in this case will please leave the court room.

PRESIDENT: Continuation of cross examination.

RAYMND MAURER, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (continued)

QUESTIONS BY PROSECUTION (Continued)

Q Maurer, when you beat these prisoners with a rubber hose, is it not a fact that you beat them so severely that they fell down to the ground?

A Never.

Q Are you sure that that never took place?

A Yes.

Q Do you recall making a statement here in Dachau on or about January 7, 1946?

A I can only remember an interrogation.

Q At the time you were interrogated on the 7th day of January 1946, here in Dachau, I will ask you if it isn't a fact

(Cross-Maurer)

that you were asked this question: "Will you describe to me the method you used in beating these men?" Were you asked that question? Yes or no.

A Yes.

Q I will ask you if it isn't a fact that you made this answer: "They were only beaten if they endangered the detail".

A Yes.

Q I will ask you to state whether or not you were asked this further question: "Did you use a club?"

A Yes.

Q I will ask you to state whether or not you made this answer in reply to that question: "Never a wooden club -- the hose".

A Yes.

Q I will ask you if you were not asked this question: "With such a force that the person you were punishing was thrown to the ground?"

A That was what they asked me.

Q I will ask you if you didn't make this answer to that question: "Yes, that occurred repeatedly".

A Never.

PROSECUTION: Will you mark this document as Prosecution Exhibit 71 for identification?

(Whereupon the document referred to was marked Prosecution Exhibit 71 for identification)

Q I hand you a document marked Prosecution Exhibit 71 for identification and ask you to examine it and state what it is.

A Yes, I recognise it.

Q All right, I will ask you to examine the last page and state whether or not that is your signature that appears on page 4 of the document that is marked Prosecution Exhibit 71 for identification.

A My name?

Q Is that your signature?

A Yes.

Q What is the paragraph that appears on page 4, of prosecution exhibit 71 for identification?

A That can be right, Mr. Prosecutor, but I didn't have a chance to read it through. I signed it, yes. It was already after closing time in the evening and everybody had left the office and then I got that to sign.

Q You signed it, didn't you?

A Yes, I signed it but I didn't read it through beforehand.

Q You were asked questions that I asked you a moment ago, weren't you?

A Yes, they asked me these questions.

Q Then were you asked this additional question: "Did they bleed?"

A Yes.

Q I will ask you to state whether you made this answer: "No, I never beat anyone so that he would bleed".

A That is right.

Q All the questions that I have asked you with the exception of that one is correct? Is that a fact?

A That is right.

Q How old are you Maurer?

A Thirty-seven.

PROSECUTION: Reporter, will you mark this sworn translation as Prosecution Exhibit 71A for identification?

(Whereupon the document referred to was marked Prosecution Exhibit 71A for identification.)

Q You have been before courts before, have you not?

A Earlier, yes.

Q At the time you signed that statement, you swore by Almighty God that it was correct, did you not?

A No, not when I signed it.

Q Prior to the time you signed it?

A When I was interrogated I took an oath but I didn't get this document to sign until just before the trial started.

Q You stated did you not, at the time you were sworn, that you would tell the truth and would add and withhold nothing. Is that correct?

A Yes, but I can explain this question which the prosecutor is referring to.

Q Just answer my question please. Now this punishment company that existed up until October 1943, was that for the purpose of imposing punishment upon those prisoners who were guilty of infractions of various rules and regulations of the camp? Is that not a fact?

A Yes.

Q What were some of these infractions of the rules of the camp that were punishable by being sent to the punishment company?

A Many.

Q I know there were many, but what were some of them? Tell the court what some of them were.

A For instance, I will give you now a very absurd one as about the capo Leingspice. He had to do some work there in Blocks 21, 22 and 23 there in the courtyard of the buildings. He had to make a water trough there so the water could run off it. He wanted to make this secure and permanent so he used blocks and mason stones to fasten it down. They were piled up and exposed to the elements anyway and they would have been useless because of that, and he used these for this purpose. The leader of the particular custody department, Fritsch, saw this trough and called him to him and gave him 25 blows on the rear and condemned him to the punishment company.

Q What date was that?

A Beginning of 1943. Probably around April or May.

Q Did he stay there his entire time?

A He was there until July or August and then he came out and went to another work detail.

Q What were some of the offenses that were punishable by being sent to the punishment company?

A You would get the punishment detail if you had a few potatoes in your pockets -- two or three potatoes. If you had a cigarette lighter, you would get the punishment detail. If a block eldest was discovered having a dirty locker in his block, he would be relieved of his duties and get the punishment detail. Anybody who was lazy - if somebody happened to come by them and see that he wasn't working, he would get the punishment company.

Q This punishment company, how was the work there different from the work that was done on other commandos?

A It was terrible. It was unbearable. From the end of 1942 until October 1943, it was bearable in that period of time,

but as I already mentioned in the beginning, there were people who could only endure it for two hours and there were people who could last for weeks or months, and if anyone was supported by someone else---

Q Beatings were more frequent there, were they not?

A Yes, they were on the plan of the day.

Q They were more severe than in other commandos, were they not?

A Yes. There was no limit.

Q They were beaten with a rubber hose as well as with a stick, were they not?

A If it had been only done with a rubber hose, it wouldn't have been so bad, because then nobody would have gone to the dogs because of that.

Q People were killed, were they not, on the punishment company?

A Many people were killed.

Q Now what position did Plitmann occupy in the camp?

A He had been on an outside detail and then he came to the camp as chief capo in Department 2004.

Q Approximately what date was it that he came to the camp as chief capo?

A If I am not mistaken, it was March or April 1944.

Q I believe you stated that he started taking disciplinary action by sending those guilty of infractions to the transport detail, is that correct?

A Yes.

Q These people were sent there because they were lazy, were they not?

(Cross-Maurer)

A Yes.

Q Or because they had cigarettes in their pockets?

A No.

Q For what other reasons were they sent there to the transport by Wittmann?

A There wasn't any roll call in the morning and as I have already said, the work details would march off together according to the hall they were going to. C1, C2 -- in every hall there was a work detail. The work details, wood yard transport detail, and the detail which loaded the airplane wings, they were also work details. When the work details going to C1 and C2 had already left for their work, the other ones were still in their block. Now he comes down and his detail is already gone. He comes to the transport detail and any such misdemeanor which was discovered of a prisoner, he would end up by having to join the transport detail, and as I already mentioned before, when they brought some of Hauser's people to me because of slight misdemeanors, I personally took the people back to Hauser's detail. The chief capo Wittmann, wasn't trying to pull any chicanery on these people. He just wanted to teach them a lesson so they would be on time.

Q Is it a fact that he wanted to teach them a lesson by sending them to a transport detail that had easy work?

A That is completely true. Chief capo Wittmann was the best and most decent capo which I have ever known. Today he is dead but he was the best man in Flossenburg.

Q He would send people there for punishment to a detail that had easy work, is that right?

(Cross-Maurer)

A It wasn't easier work— that isn't what I meant to say. He put them in the transport detail.

Q Yes, but didn't you say that the transport detail had easy work?

A Yes, I can prove that.

Q Well, what was the punishment then that they would receive?

A He thought he could benefit these people by taking them away from their work, and in the summer the people were glad to get out of these halls, and in the winter time when we were working in the transport, we only had to go a short jump. Then we would be inside the hall again and could stay there. I had to run more than 100 times to the chief capo and explain about people who wanted to stay in my transport detail and I had to get rid of them.

Q So as a matter of fact, there was no punishment connected with being sent to the transport detail at all then, was there?

MR. MCFAY: The question is objected to as being argumentative.

PROSECUTION: Nothing argumentative about that, may it please the court.

PRESIDENT: The objection is overruled.

A You cannot talk about it as a punishment at all. They had more to eat and nobody told them what they had to do. There was no definite set order of work. When we finished delivering the material which was necessary, then that was the end.

Q So that a prisoner could profit by being lazy in Flossenburg and being sent to the transport detail. Is that correct?

(Cross-Lauer)

A That is completely right. I can give you the address of an old Czech, Mr. Prosecutor. He was with me from March 1944 to April 1945, and in April I came and got him out of the transport detail and brought him with me to the woodyard.

Q You mean you didn't want to do him the favor of letting him stay in this transport detail where the work was easy, is that right?

A It wasn't a matter of doing him a favor. He had it better in the woodyard with me.

Q How did you have charge of the new arrivals when you were capo on this transport detail?

A I had to lead them out into the clerk's office in the quarry.

Q You led them from where to the clerk's office in the quarry?

A From the roll call square in the camp up to the clerk's office in the quarry. I had to lead them this distance and then I would turn them over to the clerk's office and then I didn't have any more to do with them until evening. Then when we would come back from work, they had to go along with us, and on the same day they were divided up into different places of work. They weren't working for me but were scattered around in different halls.

Q In other words, Maurer, you would take the new prisoners who came in at the gate and had gotten to the roll call place -- you would take them from the roll call place down to the clerk's office in the quarry, is that correct?

A Yes.

(Cross-Maurer)

Q Who assisted you in that job?

A I was alone.

Q What was the greatest number of new arrivals that you conducted from the roll call place down to the quarry?

A The largest number, 130 or 140.

Q You testified that you were instructed by this block eldest to assist in the maintenance of discipline in Wing B. Is that not correct?

A That is right.

Q And you did, did you not?

A Yes, of course. But I could have refused to do it too.

Q You could have?

A Yes. But then I would have had to have leather on my rear because I wouldn't have been able to stand it, Mr. Prosecutor; I would have got blows for that. The block eldest would have gone to the leader of the protective custody camp and told him I had refused him when he asked me to help him preserve order in the block, and I would have gone directly to the wooden horse and got my blows. There are 35 or 36 SS people sitting in the dock. Let them tell you about how things went on there.

Q So you elected to beat the other prisoners rather than receive a beating yourself, is that correct?

A That isn't right.

Q That was the effect, is that not true?

MR. MCKAY: That question is objected to as being argumentative.

PROSECUTION: I am asking whether or not it wasn't a fact that that was the effect of it. There is nothing argumentative about it. It doesn't assume anything.

(Cross-Maurer)

PRESIDENT: Objection is sustained.

Q Well, what was the effect of that decision you made so far as your beating prisoners was concerned, and so far as saving yourself from a beating?

A I can explain that to you completely. I already told you before that these gentlemen with the red triangles, the political gentlemen, said "Let them crap out". It isn't right that they are condemning green triangles today. If the people with the green triangles hadn't been there then, I can swear to you that thousands would have crapped out.

Q Isn't it a fact that thousands died because those who were there did wear the green triangle?

MR. MCKAY: The question is objected to as being argumentative in form.

PRESIDENT: Objection is overruled.

A Yes, but not because of the green triangles. If anybody saved a prisoner's life, Mr. Prosecutor, that was a man who wore a green triangle. We checked through all the people who made the reports there you would be lucky if you found one who wore a green triangle, but you will find plenty who wore the red triangles. The red triangles were the young men. The red triangles were the beaters. They were the people who turned the other people over into the hands of the SS and now they come here and say "May it please the court, I didn't beat anyone". That is right but he didn't tell you, Mr. Prosecutor, that every day he wrote out his report and carried it to the clerk's office. Any time a prisoner would come to the clerk's office to be punished, he wouldn't be told who had reported him. If he were asked whether that was true what he had done, he would get

off easier if he said yes than if he said no. There was one person who were a green triangle and that was Schrade. He made many reports. Also Dr. Giesecki; he ran around the streets with a rubber hose in his hands and he himself beat people and he himself made reports. But I don't have any reason to put the finger on Giesecki because he didn't hurt me personally. Giesecki was my block clerk. He wasn't my block clerk for long but I know him. And then came a block eldest; those were the gentlemen with the red triangles and it wasn't bad when the people with the green triangles would give a few slaps on the ear or beat someone with the rubber hose on the rear.

Q But isn't it a fact that most of the capos were the green triangles?

A Yes, that is right.

Q Now you testified to this court that it is practically impossible to describe the conditions that existed in the concentration camp, is that correct?

A That is right.

Q It is also true is it not, that the capos contributed to make the life in the concentration camp unbearable?

A That is entirely impossible. We are talking here about thousands of little insignificant details which were beaten into the lives of the people.

Q Is it insignificant, Maurer, when a man is beaten with a rubber hose?

A The small details have nothing to do with the rubber hose.

Q Answer my question.

(Cross-Maurer)

A That was what I said. The rubber hose didn't have anything to do with that. You can get at this life, Mr. Prosecutor, but it would be impossible to describe it if a man were to sit here for eight days. You still couldn't tell how it was and nobody can convince a court what kind of life it was in a concentration camp. Even if they had 100 trials to try to do it.

Q Isn't it a fact that people starved to death in Flossenburg?

A No.

Q No one ever starved to death in Flossenburg?

A No.

Q Is it not a fact that the prisoners were beaten to death at Flossenburg?

A Earlier.

Q From 1942?

A In 1942 still also.

Q In 1945?

A The last one was 1945, and I saw to it that he came to justice. That was the last man who beat anyone to death. Otherwise nobody.

Q They had a crematory in Flossenburg in 1942, did they not?

A I came there in April of 1942, that is right.

Q They had a crematory still going in 1945, did they not?

A That is right.

Q Isn't it a fact, Maurer, that the people that died did not die of old age during that time?

MR. MCKAY: I object on the ground that it is argumentative.

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PROSECUTION: I am asking whether or not it is a fact may it please the court, and I have a right to find out if they died of old age or something else.

MR. MCKAY: Furthermore, there is no qualification for this man to know the basis of deaths. He is no physician.

PROSECUTION: It just so happens, may it please the court, that that is just one of the things that a layman can testify to -- whether a man died from old age or not, whether he reached the ripe old age of 85 or 86 before he died.

PRESIDENT: The objection is overruled.

A Yes. But some of them died of old age. They even die of old age today on the outside, but that is just what I was emphasizing before. In order to be able to describe that, you would have to sit here for one week. If you asked me today whether I was hungry, then I would say no. I had enough to eat. I can prove that. But ask another one and he will say yes, he was hungry. There were people who ate six, seven, eight and up to ten liters of food. I know two men that swallowed down 25 liters of food and when they got through with it, they were shot to death. When I would get potatoes, I would peel them and take the eyes out and throw them away. Many others did the same thing, but also many other people would come down and go through this garbage and they had the same food I got.

Q Were they doing the same work you were doing?

A The same work, and I could say that I did three times as much work. I even caught up with the stone cutters who had been trained for their profession.

Q Can you name a single capo that came around and picked up your potato peelings and potato eyes.

(Cross-Kaurer)

A No.

Q Right. Now is it not a fact that prisoners in Flossenburg lost about the same amount of weight that you did?

A Yes. Some lost weight and some gained weight, if I should discuss Poles, French and Czechs. There were people there who got four, five, six and up to eight packages a week. A man like that can't lose weight. He can get a food portion for himself by means of his packages. He doesn't have to work any more. He lives well. But he is still in a concentration camp too. The Russians didn't have anything except what they had coming to them, and besides that, they would go and eat the garbage and in that way they injured themselves.

Q In other words, is it a fact that those people who received food from the outside were able to get along in Flossenburg?

A Yes. They could even give away their food. When I tell you that from April 1944 to April 1945 I didn't eat one spoonful of prisoners' food, then you can believe me or not. Let me fall dead from this chair if I ate one spoonful of prisoner food since April 1944.

Q- That is the time you were living in Block 5, was it not?

A Yes.

Q That is the time the packages were disappearing in Block 5, was it not?

A That is right but also not. That didn't have anything to do with me. I can explain to you how I was living. First of all, I got packages myself. That can be proven. Every two weeks my package came and I can tell you I didn't have need for all of that

(Cross-Maurer)

package. I was amazed today about this witness Roehmer. ROEHRNER I am going to have him called back again because it was from him that I get meats and pig's feet in the tin cans, long sausage, and pieces of meat which were so long and so high (indicating) that came from the SS kitchen.

Q Is it also a fact that those prisoners who had to rely on only the food that they received from the camp were the ones who had to go out and eat the garbage?

A That isn't right.

Q The exceptions to that then, is it true, was rather that they were those persons who were able to procure food from the SS kitchen and from the prisoner's kitchen?

A That isn't quite right either. I emphasized that one man takes ten portions and another gets along with one. It is true that no one died because his heart was fattened.

Q Well, approximately how many did you have in Flossenburg who had to receive at least ten liters in order to remain alive?

A To stay alive -- Mr. Prosecutor, that is always a misunderstanding. These were the exceptional cases. You have to think automatically of being in the same position and then you will find out for yourself.

Q I am trying to find out from you, Maurer, just what your life was there.

A I want to explain that there were people who were decent. They were content with their fate. These people were supported every place. If a man came to me who was decent and I knew him to be a good fellow, he would never leave me empty handed. He would always get a piece of bread. These people were always supported in the whole camp.

Q In other words, you always had an abundance of bread, is that correct?

A Yes, my bread.

Q And you were the man who distributed that bread?

A Well, of course. There is something behind that, Mr. Prosecutor. I have 500 men. I received 500 portions of bread and I have to hand out 500 portions of bread. I can prove it to you, Mr. Prosecutor, there were days when I myself had to pay for eight or ten portions of bread. If they give me four portions, I would also have to get the sausage and margarine for it. Now I don't have to pay a quarter of a loaf but I have to pay a quarter and an eighth because I have to weigh it out with the other portions

and I have described where I got the bread from.

Q What were these chicaneries you testified about in this examination?

A As I said, you would have to sit here for days. For instance, in 1942, making your bed was the worst thing in the whole camp. That was the worst thing or to march out. For instance, a capo who has 100 men -- between the kitchen and the laundry, they would line up. He marches down to Block 1 and there they would say, "Attention, prisoners take off your hats". When the command came off, 100 caps had to be at the side with one click.

Q And you saw to it that your men took their caps off?

A Just a minute, I am not finished yet. The commandant and the camp leader, as well as the roll call leader, and a few more gangs of bitches are standing near the gate. They see that one or two men are too late in taking their caps off. I was the one who had to see to it that they obeyed as the first man in

front of the colum and I was responsible for it that the last man in the rank was in step or had his hands aleng side of his legs and had his cap down. I had to fall out to the right. I had to go back and report to the capo of the transport detail and as I did that, I would already be beaten, but I did not know why at that moment. I had to have my mess kit in the back just as well as every Russian. There was no exception and I didn't need it because I didn't eat on the outside. When I was beaten up murderously by Baumgartner and Keubler who were standing there near the gate and who kicked me in the back, I did not only feel that kick for weeks but for months. In 1942, when it was winter time, cold and your fingers were stiff and you marched passed the gate and your thumb would be like this (indicating) Fritsch would look at the prisoners marching by and he would see that the thumb was spread. Twenty-five on your rear you got for having your thumb spread. Those were the circumstances and you could name thousands of examples. The bed in 1942 consisted of a straw mattress, a white bed sheet, three blankets and a blue bed spread. When you slept you only had one blanket and one straw mattress without sheets. It was forbidden to take any kind of clothing into the dormitory and you were lying on your straw mattress with one blanket. The bed had to be as even as that table. The side had to be just like a cigar box. There were five beds in one row. The first bed spread in the line had to be just exactly even with the four bed spreads back there. We had to press our pillows just as well as the whole bed. You had two little boards with handles on them and you would press your pillow like this (indicating), then when you came home in the evening, you would pull out your pillow very carefully and put it under the bed, you would roll

up the blankets under the bed, then you would take out the white sheet and put that under the bed and then in the morning, everything had to be even and clean again. But if I slept on these things, I wouldn't get them even, so if I had done that, I would never have gotten out of being beaten. That was the year 1942. Then following that year, they took more and more away. They would take the bed spread away, the white sheet and the blanket away until finally the whole dormitory was helter skelter. For new arrivals, there were only wooden shoes there and one pair of foot rags.

Q In other words then, the mistreatment of new arrivals started as soon as they came in the gate and continued until the time they left there, is that correct?

A That isn't correct. That was in general.

Q Well, in general tell the court then where the mistreatment began for these new prisoners who would come into the camp.

A Where it started? How should I describe it?

Q The whole time you were there, from 1942 on through until the end.

A In 1942, they were sent to Block 14. The S.K. was in B wing. The new arrivals would be quartered in A wing. There was a barbed wire around the entrance to B wing so that new arrivals and the S.K. couldn't get together. One wasn't allowed to give anything to the S.K. people. No cigarettes or anything. Then it started, making your beds, marching, all in steps.

Q Let me ask you this. When a prisoner got off a train down in Flossenburg and came up to the camp itself, where did his mistreatment first begin?

MR. MCKAY: That is objected to as going beyond the

scope of direct examination, as there is no showing of testimony that the prisoner ever got off at Flossenburg.

PRESIDENT: The court didn't get the latter part of your statement.

MR. MCKAY: There is no showing that the prisoner ever got off at Flossenburg.

PROSECUTION: May it please the court, there is an idea evidently that unless the witness had said certain things, you have no right to ask him about it. That of course is not the law at all. He has testified about new arrivals and I have a right to go into that and find out the situation with respect to the mistreatment of the prisoners, -- where it began.

PRESIDENT: The objection of the defense counsel is overruled, but at the same time, Mr. Prosecutor, the court feels that a certain amount of this evidence is more or less of a general nature of the general conditions in camp and the court suggests you tie it right down to material evidence, unless you intend to later tie it up with material evidence.

PROSECUTION: I certainly do intend to. May it please the court.

A There were mistreatments and there were not mistreatments. I want to express it this way. There were 88 men who were [illegible]. There were 88 men who did their duty 20%. And there were those who did their duty 200%. If you were lucky enough to have people in the transport to have the decent people together, everything went along quietly. If there were bastards among them, then you could be kicked with the feet, beaten with fists, and they didn't care why they hit a prisoner.

Q These were the people known as new arrivals?

(Cross-Maurer)

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Q Those were the people known as new arrivals?

(Cross-Maurer)

A Yes, sir. For instance when there was a transport in the roll call square of 8 00 to 1,000 men, they had to be searched. There are people who finished in five minutes and there are others who would take longer to get dressed, etc. and those are the ones who would be beaten then. Thus everything would have to be done at a tremendous speed.

Q And that was done on the roll call square, is that correct?

A Yes. The new arrivals had to have a formation there.

Q You testified that the Germans were allowed to cook in their barracks. Is that correct?

A Everybody, not only the Germans.

Q What time was it that the lights were put out in the block?

A At 9:00, many times before. If there was an air raid for instance, they would turn them off before.

Q And the Germans were allowed to cook up until 9:00, were they not?

A That is correct, but as I stated to the court, I took the risk of having the windows blacked out and I allowed them to cook until morning. I did that on my own initiative. I took that chance although it wasn't allowed because of air raids and fires. They cooked until they marched off, which wasn't the case in "A" wing.

Q Did you not state on direct examination that you allowed the Germans to cook up until 9:00?

A Allowed them, I ordered them as a matter of fact, because they went there and they wouldn't let any one else get near. They thought the stove was there for them alone and that is just

it, Mr. Prosecutor. If a man could get used to it or not get used to it, that is how he would live.

Q Did you know the names or the numbers of the Poles that you beat with that rubber hose?

A As long as I have been in Flossenburg, I never had anything to do with a Pole. A Pole, as a matter of fact, saved my life. He gave me his bread day after day for three months as he had received it.

Q Are you able to tell the court the names or numbers of all the prisoners that you beat with the rubber hose?

A In the block?

Q Yes.

A I couldn't name you any.

Q What about on the detail?

A That is impossible to do that. I would immediately stretch over this table and take 25 with a rubber hose if I could show how effective that would be.

Q How long did you work on this detail where your only duty was writing down the names of the prisoners who were lazy?

A Not where I did, but where I should have. I don't know whether that was October or November of 1943, until the beginning of January, 1944 -- in the earth.

Q Who was the capo in charge of that?

A The last Obercapo was Heinrich. I told Mr. Kirschbaum ten times to bring that guy here and also Capt. Dietrich and two assistants.

Q During that whole period of time, you never wrote down the name of any man who was late?

A Not only do I want to lose my eyesight but my two little children at home if I had anyone take bread away from a single man.

No one ever suffered any more hunger than I did.

Q Well, it was possible to take away their bread wasn't it?

A Yes, it was possible.

Q Then why did you tell the court that there was no such thing as takin· food away from the prisoners?

A I emphasized, Mr. Prosecutor, it didn't go with me. Not with me.

Q But it was possible to take away the food from a prisoner, is that correct?

A Of course that is correct. For instance, the capo, Niederhof, who was my capo, did not only take away 20 but 70 or 80 portions and did not hand out a single portion all day. Four prisoners complained and went to the detail leader Keubler. Keubler beat them down.

Q Now when you were a member of the camp police, is it not a fact that you did participate in the evacuation of the prisoners from Flossenburg?

A Never.

Q You never were with any section of prisoners?

A No, never.

Q You were armed at the time that the evacuation took place, were you not?

A With a rifle.

Q You were wearing the uniform of the Wehrmacht were you not?

A No, an Italian uniform.

PRESIDENT: The court will adjourn until 9:00 tomorrow morning.

(Whereupon the court adjourned at 1700 hours.)

CA/GI 13 Sup.

Legal Form No. 1st Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Pages 4888 - 4977 Incl.

Case No. .....

Prosecutor .....

~~*Summary~~
~~*Intermediate Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 10 October 194 6
0900 - 1700 Hours

Reporter .....

~~Members of Court~~

WITNESSES:

RAYMOND MAURER
WILLY GRAU
THEODOR RETZLAFF

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BUCHER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY 0900 - 1720 Hours BEGINNING 12 JUNE 1946

10 October 1946 Pages 4888 - 4977 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
RAYMOND MAURER		4888	4891	4892 4904	4894 4903
WILLY GRAU	4905	4913	4917 4928	4931	4918
THEODOR METZLAFF	4933 4952				

Camp Dachau, Germany
10 October 1946

MORNING SESSION

(Whereupon court reconvened at 0915 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show all members of the court and the prosecution are present; all members of the defense are present except Mr. Noll, absent on business of the accused; all accused are present with the exception of Buddensieg, Olschewski, and Oswald, who are sick in the hospital, and Gelhardt, who is conferring with counsel, the interests of those named accused who are absent being taken care of by counsel. If there are any spectators present in the court room who expect to be called as witnesses in this case, will they please leave the court room?

RAYMOND MAURER, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: Continuation of cross examination, Colonel Denson.

CROSS EXAMINATION (Continued)

QUESTIONS BY THE PROSECUTION:

Q Now, Maurer, yesterday I believe the last thing you stated in substance was that the closest you got to these prisoners on the evacuation transport was two hundred meters, is that correct?

A It is possible that at times I was closer, you can't tell exactly today how close I was then.

Q Were you marching with the third group or fourth group?

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Q Were you marching with the third group or fourth group?

(Maurer-cross examination)

A I marched behind block 3. e left the camp at one thirty or two o'clock, but block 4 didn't leave until three thirty or four.

Q Who was in command of the group you were closest to?

A I wasn't with any group.

Q I said the one you were closest to?

A That was marching block 3.

Q And whoese in charge of marching block 3?

A That is hard to say. You could see a number of officers but you didn't tell which officer was in charge of the marching group.

Q Well you know the difference between a lieutenant, a captain, and a major, didn't you?

A Yes.

Q He was the senior officer there?

A That was commandant Koegel.

Were you with that same group when the Americans arrived

A Yes, I was in the neighborhood of this group then.

Q In other words, that was the same group you started with?

A Yes.

Q While you were marching along did you have occasion to see bodies of prisoners that had been shot?

A Yes.

Q Are there very many or not?

A Many.

Q Now were most of them shot — through the head, or neck, or through the body?

A I only saw shots in the head and broadside from rifles.

Half the head would be shot off.

Were you in a position where you could hear the shots as you went along on this march?

A Yes.

Q Was it more or less continual shooting after the first day of the march?

A After the first day of marching, yes.

Q At the time you were within two hundred meters or more did you happen to see any of the shooting?

A I often saw it.

Q Will you describe to the court the manner in which that took place?

A I always saw the prisoners lying on the ground and there they would be shot.

Q And that was the usual procedure followed?

A Yes.

Q Do you know anyone at this time that did thatshooting?

A They were all foreigners -- all people who came from Buchenwald and Lublin. They were SS people brought for the express purpose of accompanying the evacuation, because as I mentioned yesterday, the old SS who were at Flossenburg went away before the evacuation march started and didn't come back.

Q But there were quite a number of those SS men at Flossenburg who also accompanied this evacuation march, is that right?

A Yes. Possibly if I could see these people today I could recognize the people, but I can't remember any of them by name.

PROSECUTION: No further questions.

(Maurer-cross examination)

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[illegible]: redirect, Mr. Lackey

[illegible] RIGHT [illegible]

[illegible] BY [illegible]. MC KAY:

Q Mr. Hauser, what were the conditions under which your transport detail had to work in the factory.

A I am not trying to make myself look pretty, but they were the most harmless conditions of the factory.

Q What were conditions with regard to working outdoors?

A We didn't work out of doors. We would go into the main warehouse and get our material, lots by piece. I'd have twenty, thirty, thirty-five, or forty men with me and each would have to get his material one by one and that would always take about thirty minutes. Then we had only a short way to go from this main warehouse to the mill. Then all of the pieces of material would have to be counted off again immediately. I had to receive this, verify them and give them up again. If I received one hundred pieces I had to deliver one hundred pieces of material in the mill, so I was responsible for these things.

Then how do you explain the fact that overseer Ittmann would send people to this detail for minor infractions of rules?

A Ittmann believed that he would be punishing these people by doing that, by taking them away from their old place of work. But he had to find out later, I had to go to him more than a hundred times and tell him people were begging me — they wanted to stay with me. With a clear conscience I could represent myself now as the greatest saboteur of work that Flensburg ever had. Every morning — from morning to night I kept people from doing work, that is, if the work wasn't necessary. And nobody can verify that better than the accused, Schubert, because he could observe me

(Cross-redirect)

[illegible]

from persons to depart out of the confines of the administration building. The work was, was about fifty meters away from where he was.

MR. MC GAVI: That's all.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTION BY THE PROSECUTION:

Q After October, 1943, your transport detail was the only work detail to which prisoners were sent for disciplinary purposes, is that not so?

A No. There wasn't any punishment commando. That was the Chief Capo Ittmann. He was the only one who introduced that.

Q I didn't say it was a punishment company. I said is it not correct that your detail — the transport detail — was the only work detail to which prisoners were sent for disciplinary purposes?

A Not yet in 1943.

Q No, after October, 1943, when the punishment company was disbanded.

A Yes, in March, April of 1944 that was the work detail in 2004 where people would come for punishment.

Q Wait a minute —

A Just a second. Becker will have to verify that. As far as the camp was concerned there wasn't any punishment company. It is the bare truth what I say, Mr. Prosecutor. There wasn't any punishment detail in the camp, it was merely a thing which the Chief Capo thought up.

I am trying to find out, Maurer, if what you said

(Maurer-recross)

yesterday is true — that the punishment company lasted until October, 1943. Is that correct?

A That's right.

Q And my question to you again is this — after October, 1943, your detail, the transport detail, was the only work detail to which prisoners were sent for disciplinary purposes?

A Yes, but not from the camp. You've got to get your distinctions clear. The punishment company was a company which the commandant of the camp and the leader of the protective custody set up for prisoners. There isn't any comparison at all. In the punishment company the people went to the dogs by hundreds, but in the transport company nobody went to the dogs with the exception of the one that Nischoff beat to death.

Q You were capo of this transport detail, were you not?

A Assistant capo. The 18th of February, 1945, I became capo, and that is why I want this chief capo, Bauer, here.

Q Bauer, then, was the capo on the transport detail and you were the assistant, is that correct?

A Bauer was the direct capo in charge of the transport commando.

Q And you were his assistant?

A I was the assistant. Each work detail had a capo and an assistant capo. Since I wasn't capo myself, first I was taking orders from Bauer and then from Dittmann, and that is why for two months I made myself scarce. I didn't want to stay in that commando, and I ended up in the wood yard.

PRESIDENT: Any further questions?

(Bauer-recross)

PROSECUTION: No further questions.

ACCUSED MAURER: And if there are so many people sent to this work detail why hasn't someone reported himself here, Mr. Prosecutor? I could give you the name and address of a man who worked for one year with me.

PRESIDENT: Never mind. Notify the witness that the court will give him the opportunity to make a statement. We don't want any interference so far as cross examination is concerned. Nothing further?

PROSECUTION: No, sir.

PRESIDENT: Questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Maurer, you mentioned Niehoff, the capo. Do you know anything about his whereabouts?

A The last time I saw him was in June, 1945, on a Sunday, a special holiday. It was one hour before the town of Falkenstein. There are a number of separated farms there and I estimate that he is still there. He asked me where I was living and he said he would come to me, but he didn't come.

Q What about Bauer, the other capo — do you know anything about his whereabouts?

A I gave the home address of Bauer and I also told about the last place where he was.

PRESIDENT: Are there any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q You have used the expression "went to the dogs". What

do you mean by that?

ACCUSED MAURER: I don't know in what respect.

COLONEL JACKSON: Well, you have said many times in regard to punishment and one thing and another that many of the prisoners went to the dogs.

ACCUSED MAURER: They just went to pieces.

QUESTIONS BY COLONEL JACKSON (Continued):

Q What do you mean by going to pieces?

A They died by being beaten and by being shot to death.

Q Then by "went to the dogs" you mean they died?

A Yes, that they died.

QUESTIONS BY THE LAW MEMBER:

Q I understand you were interrogated by the prosecution on the 17th of January, is that correct?

A Yes. I don't know the exact date.

Q When were you put in solitary confinement?

A The 4th of January, the 2nd or 4th of January.

Q Were you put in solitary confinement before or after you made the statement?

A As soon as I finished my statement.

Q Do you know why you were put in solitary confinement?

A No.

Q Who ordered you to be put in solitary confinement?

A Mr. Berkowitz.

Q Do you know why he ordered you to be put in solitary confinement?

A Well I have my own ideas about that. He said I was a big liar and that is the way we ended the interrogation.

(Maurer-court)

Q Do you mean to convey that he didn't make the statement you wanted regarding why you were placed in solitary confinement?

PROSECUTION: I object to that question as being grossly improper.

LAW MEMBER: I withdraw the question.

QUESTIONS BY LAW MEMBER (Continued):

Q Did he tell you why he put you in solitary confinement?

A No, but I thought to myself that maybe someone else had thrown mud at me because I was the only one in solitary confinement.

Q How soon after the interrogation were you put in solitary confinement?

A The same day as soon as the interrogation was over.

Q How long did you stay in solitary confinement?

A I stayed in solitary confinement until my next interrogation. That wasn't very long, just a few days. And then I asked the officer at this occasion to put me in with the other prisoners. That was approved but after five days of that I had to go back to solitary confinement.

Do you know why you went back into solitary confinement?

A No, the only word I heard was that an order came out.

Q How long did you stay in solitary confinement then?

A Until the end of March.

Q Yesterday you said you were called in just before the trial and were given a statement which was partially read, to sign without reading. Can you give the date of that statement?

A I didn't sign that until just before the trial started.

How long before the trial started?

A It could have been one or two days.

(Maurer-court)

And that was based upon your statement made in January?

A I assume it.

Q How was the statement taken down originally? Was it taken down in shorthand, or was it written up by Mr. Berkowitz or yourself?

A It was written with pencil, lead pencil.

Who wrote it down?

A Mr. Berkowitz and the second time it was an officer.

Q Who had you sign the statement?

A It was an elderly gentleman.

Q Was he an American or some other person?

A An American officer.

Q And you say it wasn't read to you at all before you signed it?

A I was allowed to read it, but it was Saturday, everybody had shoved off, the offices were all locked up so I just looked at the beginning of it, looked at the questions, and saw that they were my statements and I went ahead and signed it.

Then they told you that you could read it before you signed it?

A Yes.

Do you know what the rank of the officer was who was present at the time you signed the statement?

A There was only one there.

Do you know his rank?

A I don't know that.

PRESIDENT: Any further questions by members of the court?

LIEUTENANT COLONEL SKILLVIG: Yes, I have one.

QUESTIONS BY LIEUTENANT COLONEL SKILLVIG:

Q Maurer, am I correct in understanding that the transport commando was divided into two sections: one that had to do with delivering materials to the various Luftwaffe units, and the other the wood yard detail?

A Yes, there were three work details.

Q What was the third work detail?

A That was a special work detail which consisted of fifty Russian officers who were engaged in loading up airplane wings.

Q You have previously stated that you were assistant capo of the transport commando. Was this unit to which you were assistant capo a subsection of the transport commando?

A At the beginning from January until April I was assistant capo of the transport commando. Then capo Niehoff was relieved and I stayed on in the transport commando until April, then I went to the wood yard, and then capo Filmoyer took over the transport detail.

Q In April of what year was it that you asked to go to the wood yard?

A April, 1944.

Q Then of what detail did you become capo on April 18, 1945?

A Then I was in the wood yard.

Q You actually became capo of the wood yard detail on that date?

A According to the books I was capo.

Q Were you ever overcapo of the whole transport commando, all three units?

A I was only responsible for going off to work and coming back at night. The first division of the transport, the division that loaded up airplane wings, was responsible to the cage of hall C-2. This transport detail was under the orders of Tilmeyer, and I had the wood yard.

Q What was Oberscapo Mittmann in charge of?

A The whole works, the work in the quarry and 2004.

LIEUTENANT COLONEL SKINNER: No further questions.

QUESTIONS BY THE LAW MEMBER:

Q How many times were you beaten when you were taken into custody by the Americans?

A Once in Regensburg and once in Moosburg.

Q With what were you beaten?

A In Regensburg I was beaten with fists and the butt of a rifle and in Moosburg with fists and kicked with feet.

Q Were you beaten by the Americans or was it the Poles and Czechs you spoke of?

A No, everybody was wearing a uniform, but we were told that they were all Poles and Czechs.

LAW MEMBER: At that time there were many Poles and Czechs wearing American uniforms. That's why I'm trying to find out whether the people who beat you were Americans or some other nationality.

ACCUSED MAURER: It was always somebody in an American uniform.

PRESIDENT: Any further questions by any member of the court? Apparently not. Defense?

MR. MC KAY: Nothing further.

PRESIDENT: Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: Maurer, do you have anything else to say to the court at the present time?

ACCUSED MAURER: Yes.

PRESIDENT: The court has given you considerable time, Maurer, in which to state your side of the case to the court. So make it concise and to the point.

ACCUSED MAURER: I want to talk about this one piece of testimony here in regard to beating someone down. Mr. Berkowitz asked me about the severity of the slaps of the ear I gave. He asked me if anyone fell down because of them. I said, "Yes". Then you are wearing wooden shoes it is no trick to fall down. And then that was changed around to fit in with this rubber hose but that isn't right. I have already described exactly what went on when I punished someone with the rubber hose. And the Frenchman, Lerognon said that I would take care of the roll call. I believe that there have been enough witnesses, may it please the court, that the foreman who didn't have anything to do with the block didn't have any thing to do with the roll call. In the evening when I came back to the block I had to fall in the rank and file like everyone else. The only people who held roll call were the block oldests and the block clerks. Then he talked about a comrade of his who had been with me in the transport, and he said this man had gone to the dogs because of hard work and hunger, and died three weeks after he left the camp. That is a figment of his imagination, that is a lie. This man was never with the transport commando. He can't make any judgment about a transport detail but still he goes ahead and tries to.

PRESIDENT: The court would like further information

as to just what individual you are referring to, Maurer. You are referring to a previous witness. To whom are you referring?

ACCUSED MAURER: An earlier witness, the Frenchman, Jerognon. That is the man whom I punished twice, once because of his pot which he wanted to put under the bed, and the second time because he stole blankets. He said that when he was out in the quarry I gave him a box on the ear. That is completely lied about. And the other two Frenchmen who testified along with him, they were in Wing A and of course all they did was to give their comrade support in their testimony. I was never authorized to take food away from any man, and also I didn't have any interest in doing that. I had all I needed. What do you think I would have done with the food that was remaining extra? As soon as the food had been given out the block clerk took over the rest of it, what remained, and he gave that out to the people who had been working in the block or the people who had "scrounged up" something in the block. I stole more than one thousand window panes out of the quarry and carried them back into the camp. I even committed burglary. I broke in and stole when the blackout was on. It would have been certain death for me if I had been caught. I delivered more than one thousand brooms and wash brushes in the camp. I did all this at the risk of my own life. I had more than one thousand pounds of coke and coal taken into the camp. I had to do everything at the risk of my life. The same way with wood and paint. And nobody yet has come here and put their finger on me except Jerognon, Schrade, and Kucera. The last one was with me. Nobody came from the block and said I had beaten anyone to death. No one came from the work detail and said I had beaten anyone to death. And when they say they used to call me tiger in the camp you could call together thewhole personnel

of Flossenburg and there wouldn't be one who said he knew me by the name of tiger. He based this statement on the color of my sweater. Then if that is true, what he said, there would have to be red tigers in existence because my sweater was somewhat darker than this red up here (indicating). That doesn't have any reference to a tiger, I'm sure. And it is necessary to consistently repeat how these Frenchmen behaved, how mean and low they behaved. I knew some Frenchmen who had their beds next to the window. They would urinate into their eating utensils and pour it out the window. Other people reported that to me repeatedly, but I didn't turn them in. It wasn't any of my business. I said, "If they want to eat after they have urinated in their pans, that is their business." I can only say I made myself a sacrifice to my fellow prisoners, and I don't believe there is any law that demands of me that I let myself be beaten to death or hanged for my fellowmen, especially at a time when the whole camp was all fouled up. Typhus Phlegmaticus was flaring up and there was human excrement lying on the floor, and there were people who collected lice and threw them in the beds. You could go and get a certain Hans Denk from Munich. He had so many lice you could cover them in a bottle this high and this wide (indicating), which he got from his bed. He was supposed to keep order in the canteen. Hehad beaten a few people and they threw so many lice in the bed that he had lice all over his body. If we had all acted like this to people who wore the red triangle then everything would have gone "kaput".

PRESIDENT: Anything more, Maurer?

LIEUTENANT COLONEL SKIELVIG: I have one more question.

(Maurer-statement)

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q Have you ever heard of the detail 2002?

A That is the Messerschmitt factory itself. That is only the code name. Whenever they sent anything away or received it at the railroad station, it would always have this number on it.

DR. WACKER: The colonel mentioned 20.2 and the witness is talking about 20.4.

PROSECUTION: Just a minute. May it please the court, I object to counsel trying to put words in the mouth of the witness.

LIEUTENANT COLONEL SKIELVIG: I will ask a question to clear the whole thing up.

PRESIDENT: Doctor Wacker, Colonel Skielvig will ask a question which will clear up the whole situation.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q I have just spoken of 20.02. What was that detail if there was such a detail?

A There wasn't such a thing.

Q Was 20.04 the Messerschmitt detail?

A There was only this 20.04.

PRESIDENT: That clarifies the situation so far as Maurer is concerned, does it not?

DR. WACKER: Yes.

PRESIDENT: Any further questions? Apparently not.

PROSECUTION: I'd like to ask a question, in view of the statement he just made about 20.04.

PRESIDENT: The court will give you an opportunity to do so.

(Maurer-court)

RECROSS EXAMINATION (Continued)

QUESTIONS BY PROSECUTION:

Q Did you know a man in your block by the name of Vladislaw Orlinski?

A No.

Q What about Leon Lypschrtz?

A No.

Q Anton Chiebot?

A No.

Q Henryk Woyno?

A No.

A No.

PROSECUTION: That's all, sir.

PRESIDENT: Has the prosecution finished?

PROSECUTION: Yes, sir.

PRESIDENT: Does the defense have anything further?

MR. MC KAY: Nothing further, sir.

PRESIDENT: The court understands that the defense has finished with this witness?

MR. MC KAY: That is correct, sir.

PRESIDENT: The witness will leave the stand and return to his place in the dock.

(Whereupon the accused, Maurer, left the stand and returned to his place in the dock.)

PRESIDENT: The court will recess for a half hour.

(Whereupon at 1000 hours the court recessed for a half hour.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution, all the personnel of the defense are present, all the accused are present with the exception of Buddensieg, Olschewski, Oswald and Jakubith who are sick in the hospital, whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Colonel Wilson?

DEFENSE COUNSEL: Willy Gram will be called as the next witness who will testify on behalf of the accused No. 50, and he will be interrogated by Dr. Engelhorn.

WILLY GRAU, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

PRESIDENT: Proceed with direct examination, Dr. Engelhorn.

DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q What is your full name?

A Willy Grau.

Q How old are you?

A 46.

Q Where do you live?

A Weiden.

Q Were you a prisoner in a concentration camp?

A Yes.

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Q In which one?

A Buchenhausen and Flossenburg.

Q When did you arrive in Flossenburg?

A Since July, '42, I belonged to Flossenburg.

Q How long did you stay in Flossenburg?

A Until May, '43.

Q Where did you go then, after that?

A I went to the outcamp Pottenstein.

Q How long did you stay there?

A Until the 14th of April, 1945.

Q Please describe the conditions you found in Pottenstein.

A What period of time?

Q From your arrival on.

A In '43, when we came to Pottenstein we had our detail leader, Knobler, but Sgt. Kaszmann relieved him of his duties. After Kaszmann, we got Sgt. Wodak in March, '44.

Q Do you recognize him. Could you identify him?

A Yes.

Q Take a look in the dock and see if you can recognize him.

A He is No. 50 in the dock.

MR. ENGELHORN: Let the record show that the witness has identified the accused Wodak as No. 50.

Q Describe the activities of Wodak in Pottenstein.

A When the accused Wodak came to our detail in March, '44 in Pottenstein, the work detail was rather run down. From the time on when Kaszmann took over, we were the worst outside detail that there was.

PRESIDENT: Just a minute, Dr. Engelhorn. Before you go

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any further in the interrogation of this particular witness, the court would like to have some more information. In the first place the court wants the spelling of the name of this outcamp, so everybody can get it.

INTERPRETER: P-o-t-t-e-n-s-t-e-i-n.

PRESIDENT: The court wants the matter clarified, Dr. Engelhorn, as to whether or not this Pottenstein is actually an outcamp of Flossenburg.

QUESTIONS BY DR. ENGELHORN (Continued):

Q Was Pottenstein an outcamp of Flossenburg?

A Pottenstein was an outside work detail of Flossenburg.

Q You may continue on with your answer regarding the activities of Wodak in Pottenstein.

A When Wodak came to us, I must say that we immediately got better housing conditions. The housing conditions were cleaner. We got rid of the lice, and he had the buildings painted. He gave us permission to scrounge up things for ourselves aside from working hours among the farmers and in that way we could get additional rations for ourselves. We could earn money on the side for ourselves. This money could be put together and we would by more food with that and the same thing held true for clothing and shoe materials.

Q In what state of health were the prisoners in Pottenstein?

A At the time when Wodak took over the command of Pottenstein we still had a number of sick people which Kaczmarek, his predecessor, had left behind him. The sick people came into convalescence and they were allowed to stay home until they got on their feet again to some extent and gradually the work detail got back on its feet because we could organize food for ourselves and we would get some

Ta 710-10/10-1of-4

from him also. After two months, we lived like human beings. I won't say that it was a paradise, but we lived like human beings.

Q Could you tell us the general percentage of sick people in this detail during the period of time that Vodak was there?

A There weren't any serious cases of illness that I know of. There would be minor things as someone would have an accident during construction or someone would have an inflamed throat. During that year we had our own medics, and our own doctors.

Q How many beds did the hospital have?

A The hospital had two beds and they were reserved for people who were seriously sick, but they were never used because we didn't have any people who were seriously sick.

Q Did you have any deaths in that period when you were there?

A We didn't have any natural deaths--deaths by a natural cause. We didn't have anyone who died on weakness.

Q Do you know of any other instances of death?

A Yes, there was one. Everyone knows about him. He was shot to death trying to escape.

Q What was his name?

A I don't know his name. He was a foreigner.

Q What were the conditions in the latrines in the camp?

A Earlier when we had to go to the bathroom in the night, we would have to go outside across a yard, but later on we would have only a short ways to go inside the building, because when Vodak came he transferred the latrine and had it rebuilt inside the house.

Q As long as you were there, was it possible to get additional food and rations under Vodak?

A Yes, due to the fact that we were allowed to do extra

work and earn money we would gather this money together and give it to him and he would see to it that we got additional rations with this money.

Q Did you have any other opportunity of getting additional food?

A We got our food up there from the troops.

Q What kind of troops were they?

A They were a communication division, and prisoners from our work detail would work up there in the kitchen and in the warehouse, and due to the fact that they worked up there they could look after us of course. Any food that remained after supper up there with the troops would come back to us.

Q Tell the court how Wodak treated the prisoners.

A The main things which Wodak asked us to keep was order, cleanliness and what you might call discipline. Whenever that was kept, nothing happened.

Q Did any cases crop up where Wodak had to take measures because the prisoners didn't keep order?

A Yes, there were some instances like that.

Q Can you give us one such case?

A There was one case. Some prisoner took some guards along with him from the construction spot and went out to scrounge up some cherries. They came back in the night at 1:30 and because he did that he got well beaten for it.

Q What time did the prisoners have to be in the camp in the evening?

A It all depended. In the summer we came back at 6, and in the winter we'd come back when it got dark. But due to the fact that

(Cross - Direct)

we were allowed to work outside we were allowed to once look to the east at the least, 10 or 10:30.

Q You said earlier that you were in Rottenstein until the 14th of April.

A That is right.

Q Please tell us what the place was like during the last 14 days in Rottenstein.

A About the first of April, about 14 days before we went off, we heard that the commando was supposed to leave--was supposed to go to Flossenburg. The commando leader had us all called together and he brought us up to his official room and told us that we were supposed to move off to Flossenburg, but he changed his mind and said we will stay here. That meant as much as we were going to stay here until the Americans came.

Q Can you tell the court whether there was any other occurring to which you were supposed to go back to Flossenburg?

A There was such an order in the orderly room. Langlow gave the order.

Q Then what took place up until the 14th?

A We continued to go to work, and on the 11th, the word went around that we had to move off. It was my opinion that this order came from these communication troops.

Q Who brought the new talking about?

A He came from the command of the troops. He actually didn't have anything to do with us, but he was the senior man there in the garrison.

Q You mean the commander of the communication troops division which you earlier mentioned?

(Over - Direct)

A Yes.

Q Where were you supposed to go to?

A We didn't have any direct goal because we didn't know exactly how near the Americans were. We heard they were so close, and then think they were further away. The way the accused Vodak talked about it, he wanted to take us away, but not to Flossenburg. The possibility existed that he wanted to bring us over in the direction of Czechoslovakia.

Q Do you know where Vodak's home is?

A I know that he is a Sudetenland German and he wanted to go with us in this direction.

Q Please tell the court what took place on the 14th of April.

A We fell in on the morning of the 14th and prepared ourselves for the march. I took over charge of the transport which we had to carry our food with us. We loaded up our vehicles and besides that we had to take care of a sick man who suddenly got sick. We were supposed to shove off at 1' o'clock. Since I had a vehicle with horses in front of it and a sick man inside, I asked Vodak if I couldn't take a few guards with me and push off earlier at 12 o'clock. He approved this matter. I got two guards along and then we shoved off at 12 o'clock. We went slowly up until 7 o'clock and then I met Vodak again. He came up on his motorcycle. He said that we would meet again in the village of Splash and we would wait there until the tank detail arrives there. We went on with our wagon and reached the autobahn and after we had gotten a hundred meters through the overhead pass, we went underneath the autobahn, suddenly the Americans showed up with their reconnaissance tanks. They were on one side and we were over there (indicating), so we were cut off from

(Grau - Direct)

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the detail.

Q What happened then to you and your vehicle?

A We drove to Halash; German troops were still there, but they left within half an hour and we were alone there then. We unloaded everything then as the farmer didn't want to drive on anymore with his wagon. Then we took a hand wagon the next day and loaded up some food for ourselves, blankets and the sick man. We knew that we were inside the kettle--surrounded, and we kept driving around in circles. Finally we reached Weiden and there was the Americans. That was the end.

Q Did you see Wodak anytime after you saw him in Halash?

A No, the first time I saw him since then was here in the courtroom.

Q How many sick people were there on the day that you were supposed to march off and how many were in your wagon?

A One.

Q Weren't there any other sick people in camp?

A If there had been any, I would have loaded them on the wagon also. We had a long wagon pulled by horses.

Q Then that was the only sick man in camp?

A Yes.

Q How many inmates did the camp Pottenstein have altogether?

A 180 men were there when the accused Wodak arrived and in February, '44, once we got a hundred more and then we got some more. Then we were 350 men altogether.

Q Was that the total strength of personnel on the 15th of April?

A I don't remember. It seems to me there were 50 men who

either were removed from the camp or took off on their own. We picked out 30 men from these reserves which we received and after a few days they suddenly got diarrhea and they went back. We couldn't use them.

Q Where did these reserves come from?

A Flossenburg.

Q And they were sent back to Flossenburg?

A Yes.

DR. HENKLEIN: No more questions.

PRESIDENT: Cross examination.

CROSS EXAMINATION

QUESTIONS BY MR. RENKOVITZ:

Q These men were sent back to Flossenburg because they got sick at Pottenstein?

A I didn't understand you.

Q Well, didn't you just say that 30 men came to Pottenstein and they got diarrhea there and were sent back?

A Yes, that is what I said.

Q Now who beat this one man who stayed out late?

A That was down there in the guard room. I didn't see it with my own eyes, but I heard that he got something out of it.

Q Now you stated that if prisoners maintained order, cleanliness and discipline according to the conception of Wehrmacht, nothing would happen to them. Now what would happen to them if they didn't?

A We prisoners took it upon ourselves to be on our guard to make sure that such incidents never occurred.

Q Will you answer my question?

A There was the one case I already mentioned. He carried it

(Orum - Gross)

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too far. I can't think of any other case where anyone got beaten. Perhaps it was possible where the construction was going on.

PRESIDENT: The court would like to have one matter clarified. The witness mentioned "he carried it too far". Let's get that clarified.

Q What do you mean by saying "he carried it too far"?

A Pay attention now. Everybody had to be back in the camp about 10 or 10:30. But when somebody stays out late and doesn't come back home until 1:30 then we say to ourselves "he's carried it too far."

Q You meant this man, by staying out too late, was carrying it too far?

A Yes, because he stayed out on his own without any reason.

Q Were any of the guards with him?

A Yes, the guards went with him.

Q And when he came back he was beaten in the guard room?

A Yes, when he came back, he got beaten.

Q Now don't you know that other prisoners were beaten in the guard room?

A Yes, there were two Germans in the guard room.

Q Well, did you know that prisoners were beaten in the guard-room?

A No, I can't say that because the guard room was later on transferred outside because we needed the space for living quarters.

Q Where were the prisoners beaten?

A You mean physically?

Q Yes, I mean physically.

A Just as was ordinary. You couldn't see any marks of it on their faces. They did get some on their behind.

Q What do you mean by "polished up"?

A That is just an expression, "We beat him."

Q And how often did that happen?

A I can't really say. It could have happened 3 or 4 times. I don't know exactly. It didn't happen very often because it was forbidden by the leader of the commando.

Q You heard about it though didn't you?

A Yes, I heard about it.

Q And everybody else in the camp knew about it?

A Well, we all lived together. We didn't live separated from each other.

Q Answer my question.

A Yes, of course, everybody knew about it.

Q You stated that you had no cases of natural deaths there but cases of unnatural deaths. Will you tell what some of these were?

A There is that one who was shot to death when he was trying

Q In what part of the camp would this be administered?

A The guard room is in the camp, and that is where it took place--in the guard room.

Q How were prisoners also beaten on the construction details?

A I worked up in the camp. I was putting on roofs and I wasn't down there where they were building streets. That is where the greater part of the prisoners worked and I didn't see anything that went on there.

Q You heard about beatings there didn't you?

A You mean, did I hear about them?

Q Yes, did you hear about them?

A Yes I heard that a foreman had polished up another one.

to escape. I don't know the guard who shot him to death, and the other one was also shot to death trying to escape. That is the way I heard it at least.

Q And what were the other cases?

A What other cases?

Q What other cases of unnatural death did you know about?

A You mean with us in Pottenstein—we didn't have any more. I would know of any other one. There is that one who was shot to death up there and the other one.

Q How do you know anything of the activities of Wodak at the

main prison camp at Flossenburg?

MR. MC KAY: That question is objected to as going beyond the scope of direct examination.

MR. BERKOWITZ: If it please the court, he testified how Wodak treated prisoners. I have a right to determine the extent or the limitation of his knowledge.

PRESIDENT: Reporter, repeat the question.

(Thereupon the question was repeated by the reporter.)

PRESIDENT: The objection of defense counsel, Mr. McKay, is sustained. You may rephrase your question if you desire, prosecution.

QUESTIONS BY MR. BERKOWITZ (Continued):

Q Do you know of the activities of Wodak in any other place except Pottenstein?

A I really learned to know the accused Wodak well in Pottenstein. That was the only place. In October '42, I came back from the work detail, Dresden; I weighed 100 pounds, and the few weeks that I spent in the camp before I went to Pottenstein I didn't have

(Grau - Cross)

much chance to see him. Wodak was there but I couldn't observe his activities.

Q Will you answer my question please?

A I knew that he had a block of Russians.

Q Where?

A In Flossenburg.

Q Do you know how he treated the prisoners there?

A No, I never paid any attention.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect. Mr. Engelhorn.

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q A little while ago you said someone had been "polished up". You said that meant as much as being hit.

A That is an expression which they say in my dialect and that is the way I expressed it.

Q But there are various degrees of beating. Will you please tell the court exactly how this person was beaten?

A They weren't beaten so very badly because the next day they were at work again.

Q Who was the capo or the foreman at the construction place?

A We had various foremen in the street-building detail. They had a few Germans as foremen. We had Poles; we had Czechs, and there was such a column of prisoners working there that you couldn't always see what was going on.

Q Who were the people who beat people at the construction place?

A There was a certain Veiberg and he was relieved of his

duties. There was another one, but I can't think of his name quickly.

Q Do you know why Veiberg was relieved of his duties?

A Because he didn't abide by the regulations which the commando leader put out.

Q In what respect did he violate them?

A Because he continued to tyrannize us.

Q Did Wodak have anything to do with having this Veiberg relieved of his duties?

A For the greatest part, yes.

DR. ENGELMAN: No more questions.

PRESIDENT: Recess.

MR. BERKOVITZ: No further questions.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q You have mentioned that Wodak arrived at Pottenstein in March, 1944.

A Yes.

Q What was the status or position of Wodak at that particular time?

A He was our work detail leader. He had responsibility for the entire camp for us prisoners.

Q What was the position of Wodak on the 14th of April, 1945?

A He was still our work detail leader.

Q In other words, the court understands that the duties of Wodak at that particular time was being responsible for the work of the entire camp, is that right?

(Orem - Court)

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A Yes, from the 14th of March, 1944, until the 14th of April 1945 when I went away.

Q You also mentioned that when such matters of cleanliness, order and discipline were all right in the camp, Wodak took no action, but that when those matters mentioned were not in order Wodak did take action. What the court wants to find out is just what action did Wodak take.

A If anyone did something wrong, like in those cases I already described, he would be punished. Wodak very often overlooked trivialities.

Q You mentioned he would be punished; who would punish him?

A I can't say that; I wasn't there.

Q This court will receive hearsay testimony.

A In the one case I knew that he told us that the commando leader had beaten him. In the other case I don't know whether it was the dog leader or not.

Q Who was the commando leader you are referring to?

A Wodak.

Q Who was the dog leader you are referring to?

A His name was Wilmer.

Q You mentioned that somebody told you that. Who told you that?

A The prisoners who had been beaten.

Q What did he have to say about the beating given him by Wodak?

A He said that he had gotten his share. That is all he said. The case was closed then.

Q You didn't ask him what he meant by the statement "he had

and if anything took place in the official room, well, we weren't there to see it. I know that if anyone would have been severely beaten we would have seen it because we always stayed together.

Q The court understands that one of the duties of Wedak during this particular period was that he was responsible for the order and discipline in the camp, is that correct?

A Yes.

Q You mentioned this beating in the guard room. You further stated that there were two Germans there at that time. Do you mean by that that the two Germans were responsible for the beating?

A Do you mean whether they took part in the beating?

Q The court wants to know whether or not they administered the beating.

A No, the way I meant to say it was that they had committed misdemeanors themselves and they got some punishment for it.

Q Who gave out that punishment on that occasion in the guard-room?

A I already told you about the one case; the party in question said he had gotten something from the commando leader and the

gotten his share"?

A No. We knew that he had gotten something and we didn't go into detail about it.

Q Did he show any evidence of having been beaten?

A You couldn't see any trace of it in his face and he didn't show us his ass.

Q Can you tell the court any other occasions when Wedak took actions of that same nature?

A I mentioned the other incidents, but they didn't tell us whether it was the commando leader who had done it or the dog leader.

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other two, the way the word went around, they had gotten something from the dog leader.

Q And the commando leader you are referring to was Wodak, is that correct?

A In the first case.

Q You mentioned a fight between two foremen at Rottenstein. What were the nationalities of those two foremen?

A One was a German and the other one I can't tell you any more. I have forgotten his name. He came from up in the Polish region. He spoke German and he spoke Polish.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q Where did you live prior to your arrest by the German authorities?

A Berlin.

Q What work did you do?

A Waiter.

Q Why were you arrested?

A Because of mayhem.

Q Were you tried by a German court?

A Yes.

Q What was your sentence?

A 4 years in prison.

Q When was that?

A In the year of 1935.

Q Were you arrested for any other offenses?

A I had one previous conviction.

Q When did you first go to a concentration camp?

(Graf - Court)

A 1942.

Q After you had served your time in prison and before you went to a concentration camp, what did you do?

A I was put into a resident concentration camp directly after I had finished serving my prison sentence. I had to make up for 2 years of time during my sentence because I had been sick.

Q How old are you?

A 46.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY THE PRESIDENT:

Q You mentioned that you had one previous conviction. What was the charge?

A Theft. I got 4 months for that and then probation. I was put on probation in the year 1931. And the second time, the sentence was so high because I had attacked an SS man--pardon, he was an SA man.

Q Then the court understands that you had only two previous convictions, is that correct?

A Two punishments.

Q A total of two convictions.

A Two convictions.

Q Now getting back to the 14th of April, 1945, just what action did Wodak take at that particular time? The court is referring to the preparations of the evacuation march.

A Everybody took his blankets and personal belongings, whatever he had. Then we had lunch.

Q I am not referring to what you did, I am referring to what Wodak did.

A Wodak said "Today we are going to march away. The work detail must be put in a state of readiness." Then I went off at noon, at 12 o'clock with the wagon and the measures he later took I didn't know about because I was separated from him.

Q Do you know of any orders he put out on that particular morning? Prior to the march?

A No, I didn't hear anything about that.

Q Were you present when Wodak gave out various instructions and orders?

A For us prisoners?

Q Any orders or instructions?

A No, he merely said today we are going to march away and what he discussed with the sergeants, the guards and other people, I don't know about.

Q And that is all you heard, is that right?

A Yes, because I drove off and I was separated from them from then on.

Q Did you see Wodak anytime from the time you left Pottenstein until you arrived at Holach?

A In front of the autobahn in the afternoon at 3 o'clock, he was with us then, this one time.

Q Where was that?

A In front of the autobahn; it could have been about 2 kilometers before we reached the autobahn.

Q And that was before you reach Holach?

A There he said to us, we should drive on to Holach and wait there.

Q Did he give you any other orders or instructions at that time?

(Cran - Court)

A No, there were two other guards along with me and he didn't say anything to them either. He merely said we should go ahead and wait because we had our food.

Q Did you hear him issue any other orders or instructions to other personnel at that time?

A No, we were away already. We had been separated from the others for over an hour.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COLONEL SKIELVIG:

Q At the time Wodak took over, how many inmates would you say there were in Pettenstein?

A 180 men.

Q When there were only 150 men, you must have gotten to know most of the prisoners, is that right?

A Yes, I knew them all by sight, but not by name.

Q Would you know the blockeldest by name?

A The blockeldest's name was Zelker or Zelka and the camp-eldest was Veiberg.

Q Did you ever know of any instances that ever took place with Zelka?

A Zelka was a man who thought only of his personal advantages. Although he was a Pole, he was still very unpopular among his Polish colleagues.

Q Whatever happened to him?

A The way I heard about it, he was shot to death trying to escape.

Q What month was that and the year?

A That was '44. The month, at that period of time the bullets

(Grau - Court)

had been rebuilt. It could have been the end of August, September or October. I can't give you the exact month.

Q What did you hear regarding that incident?

A Zelka was relieved of his duties of blockeldest because of brutality, and after he was forced to take a pick and shovel in his own hand and do some work for himself, that didn't please him. He began to get uneasy and restless and he mentioned the fact that he wanted to escape. Earlier he had been a good friend of the camp-eldest.

Q Did you ever hear him say he wanted to escape, or was that just hearsay?

A Hearsay—the conversation ran "Zelka wants to escape". Just as he had been on good terms earlier, Zelka and the camp-eldest were later on bad terms. They beat each other mutually. That was reported to the orderly room and it was said that he should be brought over to the orderly room to be investigated. He was taken down there and after a short period of time we heard a shot fired. Then the word went around that Zelka had tried to escape and had been shot to death during the escape.

Q Who do you mean, Zelka?

A Yes, Zelka.

Q Do you know a prisoner by the name of Robert Bourin?

A Yes, a Frenchman.

Q What position did he hold?

A He worked just like everyone else. He was on road-paving.

Q What ever happened to him, do you know?

A There were French prisoners of war directly across from our camp and there were windows in there so I know where Robert slept in the dormitory. And the way these Frenchmen stick together, in

(Orau - Court)

MR. COLONEL SKINNER: No further questions.

QUESTIONS BY THE PRESIDENT:

Q You were present at Pottenstein when Wodak arrived there in March, 1944, were you not?

A I had already been there a year, yes.

Q Were you present at the assembly called by Wodak in which all the prisoners were present together with SS guards?

A Together with the guards?

Q That is right, all prisoners and SS guards shortly after the arrival of Wodak at Pottensteln.

A No prisoners, I know about. He gave us a lecture, but what he said to the guards, they weren't up there with us, I don't know. He said to us prisoners he knew what was going on, and that we should maintain cleanliness and order and that was all he said to us. We decided we would do that, and he said everything was going fine.

(Orau - Court)

the evening these Frenchmen across the way would make up packages containing food and cigarettes and things for Robert and he would pull the packages up to his window in a string. At that moment, Veiberg and this Kelka, they found out about it and betrayed him.

Q What were the approximate dates that these two prisoners were shot while escaping?

A I don't know the dates. At that time you never thought that you had to use these dates again. It must have been around September sometime, but I don't know the dates. And the other one we said to ourselves at that time, how could he be so dumb to escape now before the holiday, just before the end. Could have been March. I know for sure that he was shot to death, but I can't give you the exact date.

Q Did he mention to the prisoners during the course of this assembly anything about Flossenburg and the methods of Flossenburg?

A Each of us prisoners had been in Flossenburg and he didn't have to tell us much about it because we knew what was going on there. As soon as anyone got to a decent outside work detail they didn't want to know anymore about Flossenburg.

Q During the course of his talk to the prisoners, did he mention anything about the methods of Flossenburg?

A No procedures, what was I supposed to understand about that. We knew that already. He merely came and said he was there. He said I will have this and this, and I want this and this, and if everything goes alone fine, then we will have reason to be content with him too.

Q But he didn't mention anything about the methods of Flossenburg?

A I can't remember that. He didn't try to threaten us or scare us in anyway. Everybody knew everything already.

PRESIDENT: Any further questions, members of the court?

QUESTIONS BY LT. COLONEL SKINNER:

Q Did you know a Willy Weiberg?

A Yes, Willy Weiberg was campeldest.

Q Was he before Zelka or after Zelka?

A He was before Zelka, but it is possible that they were both there together. They were friends. Weiberg had been blockeldest and afterwards they created the campeldest and Weiberg saw to it that he became campeldest and then Zelka became blockeldest.

Q How did they get along together?

A As long as everything went well, they got long O.K.

Q What happened when the time that "everything went well" terminated?

A No, you must understand me correctly. I didn't mean to say as long as everything went well in the camp. I mean as long as everything went well for those two.

Q Well, did good terms continue between the two the whole time they were there?

A Yes, until things came to a head.

Q All right, what came to a head?

A This one wanted to knock the other one out of the saddle, and this one betrayed the other with the detail leader Kaermann, and this one played him off against the other one and that is the way the friction started and out of two friends, two enemies were made.

LT. COLONEL SKIELVIG: No further questions.

QUESTIONS BY THE PRESIDENT:

Q Just how did Wodak treat prisoners at Pottenstein?

A I already said that he made us feel like human beings again after he arrived. We had had such bad experiences with his predecessors, and no comparison can be made by what we had when Kaermann was there, it was so bad before.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. ENGELMANN:

Q What nationalities were those people who you said were beaten in the clerk's office?

A All three were Germans.

(Grau - Redirect)

Q All these incidents involved Germans?

A All three were Germans.

Q Do you know where Zelke was shot to death?

A It is hard to say exactly where it was in meters. It could be about 15 or 20 meters distant from the guardroom.

Q Do you know where the accused Kodak was at that time when Zelke was shot to death?

A As far as we heard, people who were in the guardroom called him up on the telephone in his official chamber and then he had to come down to the guardroom from the official chamber. He was there because he spoke on the telephone.

Q Where was the official room?

A In the middle of the village of Pottenstein.

Q How far away from the camp was that?

A It could be 500 or 600 meters.

Q Did you hear any talk or did you find out in any way that Zelke had a gun?

MR. BENKOWITZ: Question objected to.

PRESIDENT: Objection sustained.

Q You said that reserves had come from Flossenburg and that 50 of them were sick in Pottenstein, and had to be sent back to Flossenburg. How long were these 50 sick people in Pottenstein?

A They were there for a few days. They couldn't eat our food and, at any rate, they got diarrhea, and besides that, they may have taken some water. You can't tell what they did. They got sick and then they were sent away.

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Q At that time, was there anyone else in the camp who had diarrhea?

A No, none of us. It was always the new arrivals who came who weren't used to our food, and many would get diarrhea then.

Q What do you mean, you said they got the other food?

A Well, our food was a little better than the food in Flossenburg and besides that we were allowed to scrounge up food and bring our own food for ourselves.

Q Why do you maintain that they got diarrhea from eating this better food?

MR. BERKOWITZ: Objected to as calling for a conclusion from the witness.

PRESIDENT: Objection sustained.

The court will recess until 1:30 this afternoon.

(Thereupon the court recessed at 1200 hours.)

Camp Dachau, Germany
10 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1335 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Lt. Colonel Denson, who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present, with the exception of Buddensieg, Olschewski, Oswald and Jakubith, who are sick in the hospital. The interests of the named accused are being taken care of by their counsel.

The witness is reminded that he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court understands, Dr. Engelhorn, that you have finished with this particular witness.

DR. ENGELHORN: Yes, sir.

PRESIDENT: Re-cross. Mr. Berkowitz.

WILLY GRAU, called as witness for the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

RE-CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now Mr. Grau, what is your nationality?

A German. - Berlin.

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Q You are quite a good friend of Podak, is that correct?

A No more than any other prisoner.

Q Why were you called into Podak's office and told about the evacuation march?

A There wasn't any preliminary talk about that; it came very suddenly.

Q Didn't you tell us you were called to Podak's office before the evacuation march and told about the march and given certain instructions?

A Yes, we were called to his office together and we were told. That was already the first part of April we were supposed to march back to Flossenburg.

Q Were all the prisoners there?

A No, we could not allfit in; the office wasn't that big.

Q How many were called in?

A We were about twenty men.

Q And on the transport, what duty did you perform?

A We really didn't look forward to any special duties in the transports.

Q Didn't you have the duty of transporting the supplies?

A Yes, I had a wagon and the food was loaded on it, - blankets and the sick men.

Q What illness did this man suffer?

A He suddenly got sick. He had caught cold and the medics said it might develop into pneumonia. That was a certain Allendorf.

Q What was his nationality?

A German.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct?

MR. MCKAY: No questions.

(GroupDecross)

PRESIDENT: Does the defense have anything further as far as this witness is concerned?

MR. MCKAY: No.

PRESIDENT: Questions by members of the court? Apparently there are none. The court understands the defense is finished with this particular witness.

MR. MCKAY: Yes, sir.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused by the court and withdrew.)

MR. MCKAY: May it please the court, the defense would like permission of the court to change the order of witnesses as given in the list handed in this morning, and to call the accused Retzlaff to the stand next.

PRESIDENT: The court will grant that request.

MR. MCKAY: The defense calls as its next witness, the accused Theodor Retzlaff.

PRESIDENT: Retzlaff, the court understands that you desire to take the stand in your own behalf.

ACCUSED RETZLAFF: That's right.

PRESIDENT: Proceed Mr. McKay.

THEODOR RETZLAFF, an accused, voluntarily took the stand in his behalf and made the following unsworn statement through an interpreter:

Q Retzlaff, you are one of the accused in this case?

A Yes.

Q Retzlaff, were you personally in the concentration camp at Flossenburg?

A Yes.

Q When did you go to Flossenburg?

A 6 February 1944.

Q How long did you remain?

A Until 20 February 1945, until the evacuation march.

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Q Retzlaff, will you explain to the court how you happened to become a prisoner in the concentration camp?

A I was delivered to the concentration camp in Flossenburg on the basis given of my previous convictions.

Q What was the number of your previous convictions?

A I was taken to trial six times because of theft of food for my relatives. On the 20th day of the 6th month, 1938, I was accused of having taken, -- picked someone's pocket of the sum of 3 marks and I was condemned to 9 years in the penitentiary in Magdeburg, and at that time they neither proved me innocent or guilty. And in Coblenz, I got a gift of a nickle-plated watch from a friend of mine. It was worth 3 marks. I did not know that the watch had been stolen and gave the man 5 marks for it. It later turned out that the watch had been stolen and brought to Coblenz. I was arrested and on the basis of my previous convictions, they assumed that the man had told me that the watch had been stolen. Three times I tried to have a re-trial and three times my requests were turned down.

Q Retzlaff, how long were you in the concentration camp prior to your arrival at Flossenburg?

A Since the 2nd of December in Mauthausen, Auschwitz, Flossenburg, and later here in Dachau.

Q Did you ever, from the time you first went into a concentration camp, get free from the camp in any way?

A After I found out that through a letter from my mother-in-law, that my wife had been put to death in a gas chamber in a concentration camp, then, the 29th of September 1943, I escaped from Auschwitz. I came to Cracow, and since I could speak Polish and Russian through social intercourse with my comrades in the camp, the Poles were a great help to me. In Coblenz, I was arrested again by over a hundred of the SS, the Army and the Hitler Youth

and was sent back to Auschwitz, and later on, I was forced to go back to Flossenburg to build streets, 6 February 1944.

Q When you first came to Flossenburg, to what detail were you assigned to work?

A For ten days, building streets in the winter.

Q What color of triangle were you given when you came to Flossenburg?

A A green one, of course.

Q How long did you remain on this street construction detail?

A Ten days.

Q Then what happened?

A And then I was sent as a worker to the Messerschmidt factory. I had to work at the vises.

Q On what detail in the Messerschmidt factory were you first assigned to work on?

A All four division eight.

Q How long did you remain on this detail?

A Until August 1944.

Q Did you hold any kind of position with regard to this detail?

A From the beginning to the end, until August, as I said, - I just worked every day.

Q What happened to you in August?

A I was punished.

Q For what?

A The Red Soross colonel, Leon Wornstein, - he had a young Russian. He wanted to give him some blows. I told him that he should not think of that, that he should let the boy alone because he did good work and should not be punished. Wornstein said to me, "Come over too, and you will get some blows". I said, "You Bolshevist, Communist king, you won't be able to do that", and in that moment, he put his hand out and grabbed me. He got a blow from me. Then I was sent to the transport detail and I was sent to do duty in the new detail which had been erected, - survey and repair department.

disintegration department, that is, taking things apart.

Q Did I hear you call this a transport detail?

A That is a transport detail which has never been mentioned here.

Q Will you describe to the court, just the type of work performed by yourself and the men who worked on that detail?

A All the airplanes which had been shot down by enemy pilots or destroyed on the ground, were sent to this department and taken apart. And this transport which consisted of the strongest Russians and Poles in the camp, had the duty to unload any trucks which arrived with these broken airplanes or replacement parts of airplanes.

Q What authority did you have over the men who worked on your detail?

A The first fourteen days, -- August it was --, I worked the same as everyone else. When they found out I could speak Russian and that I could get along as a comrade with the others and would explain everything to them and show them a good example, they told me I should take over this transport detail as a group leader because there was no other German there who understood Russian.

Q How many men worked on your detail?

A Twenty of the strongest Russians and Poles which they had picked out of 500 men.

Q Will you explain for the court, the difference between a group leader and a capo?

A In this work which had opened up, there was 17 group leaders and I was one of these, and over us group leaders, stood an assistant capo, and over all of us, over these 18 men, stood the capo.

Q As a group leader, did you wear any kind of insignia?

A No.

Q Retzleff, during the time that you were group leader on this particular detail, did you ever have any trouble with regard to the men who worked there?

A Mr. McKa., I would carry my sick comrades with my own arms into the hospital, and all these comrades were Russians and Poles. I did this because they were human beings the same as I am.

Q Did you ever have any trouble with the things that happened on that detail?

A I got a box on the ear fr.. the chief capo because I was protecting the Russians so much and I was told that I would be released of my duties if I would stick with the Poles so much, but I was good for it, -- I liked these boys.

Q Retzleff, did you ever get in any trouble with the camp administration because you were as a, or group leader of the detail?

MR. BERKOWITZ: That is objected to as leading.

PRESIDENT: Objection sustained.

Q Mr. Retzleff, what connection did the details that worked in the Messerschmidt factory where you worked, have with the camp?

A The Messerschmidt factory was located about 4 to 5 hundred metres distance from the camp.

Q Mr. Retzleff, will you explain to the court your duties as group leader with regard to the arrival and departure of your men at the detail to work?

A Just like everyone else, I was in the group which would be led by the capo when we would go off of the camp to work and from work, back to the camp again.

Q Now, what was the condition of these planes that you had to load and unload with this detail?

A They were riddled like a seive, all out to pieces by the American or the British or other enemy nations.

Q What was the condition with regard to removing these from the cave, was it manual labor or did you have equipment?

A Of course, it was small material and we did it with our hands. If an entire airplane would come or heavy material or an entire wing, then I would use the 10 ton cranes standing at our disposal.

Q Will you explain to the court the tempo of the work which was done on your detail?

A That all depended on how much material we would get in the day. Some days there was not any coming in and some days a lot, and then we would work. But when there was not any material, I would lay down among the Russians and go to sleep or smoke my little pipe or take a nap. The only time I worked was when the material was there. And I had to demand that of my men because that was demanded of me.

Q What was your responsibility with regard to the work done on this detail as group leader?

A The only thing was that the work would progress and that nobody caused any attention because if anyone caused any attention, which sometimes happened, then they would take it out on me.

Q Will you explain to the court your responsibility as far as the discipline among the men who worked on your detail was concerned?

A I didn't have to take any disciplinary measures against the Russians and Polish officers because I believe they had more discipline drilled into them from their very childhood then I had. Of course, they were soldiers.

Q Will you explain to the court, whether you had any

difficulty because you were responsible for the discipline of your detail?

A Except for this story of the methyl alcohol, -- never.

Q What is the story about the methyl alcohol?

A Every airplane that was delivered had a special container containing 80 litres of alcohol. This methyl alcohol had as its purpose to keep a running engine from getting overheated. The Russians found out, you might say, that this methyl alcohol tasted good as schnapps and they would drink of this industriously. As this was verboten by penalty of death because they called it sabotage of the material, and as it often happened that the Russians would come there in an inebriated condition or highly intoxicated, you can understand that I would not be at ease in this situation. It often happened that when I called these people back to work from the place where they were resting, they did not come, or could not come and naturally I have given some of them a box on the ear. Because I had been reminded myself of this duty there, being warned three times and three times getting 25 blows with the stick, and it is understandable that I did not feel good about that.

Q Now during the time that you were in Flossenburg, what blocks did you live in?

A When I first came to Flossenburg, I was sent to Block 2. That was after we had finished working on the street construction detail, at which time we had lived in a horse-stall. You can't really call this horse-stall a block. It was something like the bunkers here.

Q Then where did you go after you had been in Block 2?

A I came to Block 6 and stayed there until about the end.

Q During the time that you were in Block 6, did you ever have any duties in the block?

A No duties. Voluntary things, - yes.

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Q What do you mean, voluntary things?

A When the filth and the lice situation became too bad, then I took mercy on the people and helped them. And when a Russian or a Pole wanted to write a letter home or had a letter from home which he wanted to read and was clumsy and couldn't help himself, I would help him; that is what I call voluntary service.

Q During the time you lived in Block 6, which wing did you live in?

A B.

Q What was the nationality of the prisoners who lived in that block?

A Poles, Frenchmen, Russians, Belgians, Dutchmen, Greeks, a few Italians and Germans.

Q Will you explain to the court how you got along with these foreign people who lived in this block?

A I got along with them just as well as I would get along with my own family at home. I did not feel myself as much at ease as at home, of course, but I got along very well with these people. When I got packages, -- some of them would go to 17 kilos, -- I would give out these packages and split up these packages with the people there. Whenever there was friction and trouble between the Russians and Poles and when the blankets in the dormitory were stolen, the people would come to me and ask me for help and I would help them as much as I could.

Q Petzlaff, will you explain to the court the name you were known by when you lived in Block 6, among the prisoners?

A My brother is a priest and my brother constantly sent me packages and other articles. The peasants in the Bavarian forests

Ta-5ll-10-10
ebm-10

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Q Retzlaff, will you explain to the court the name you were known by when you lived in Block 6 among the prisoners?

A My brother is a priest and my brother constantly sent me packages and other articles. The peasants in the Bavarian forests

whom he had protected constantly gave him beans and food and he sent these things to me because he said that, "my brother is sitting in a concentration camp." I have a poor German comrade of mine whose wife was sitting at home with four children. I had her supported by means of my brother for 14 months, had her sent 100 marks each month, and I hope that these money orders sent to this woman will soon arrive here.

Q What was the nickname that you had?

A I had my brother's, "Father Freidolin".

Q You stated that in your wing lived Russians, - were you any more friendly with Russians than any other of the prisoners?

A I must say, Mr. McKay, the Russians were the best prisoners. They did not bear any grudges and they ate up the garbage from the street like pigs. They were constantly contented. They worked like animals and they didn't have any hope of ever getting out again like we did; and therefore, it is my opinion that they were the best prisoners because they were the poorest.

Q Now you stated that you were on good terms with these prisoners. Will you explain that a little more to the court?

A Yes. In October 1944, an old Jew in the quarry hall 7, said to me, "Theo, there is a 17 year old Russian boy. This boy had worked for two years in your native land and speaks your German." I had this boy introduced to me and was very delighted when I found out he spoke Cologne platt. I asked him where he had worked there at home and he told me all about it. Because he looked pale and weak, I asked whether he was hungry. He said, "Yes, of course". He said it in Russian. And I said to him, "You come over to me every noon and you will get something to eat". I asked the boy about conditions which reigned in his family. I found out that he came from Gomel, a city in the Ukraine in the Black Sea, and I found out that both his parents were deceased

because of the German attacks there, and I reacted to that in the following way: I wrote a letter to my brother with the following content: I would like him to take over a poor orphan, a homeless, helpless Russian boy. I told him that the boy was here in my vicinity and had worked in our native land. I asked him to prepare a home for him. The answer I got was actually like this: I wish to send many greetings to your poor comrade. When he comes to me he will find anything that I have to offer him, - a warm open heart full of brotherly love which will always help him and stick up for him. As far as Almighty God will allow us in every response, my heart is open to him and in any situation he can turn to me. In future, I will send letters and packages to him. The name of the boy was Petro Perenenko. His number was 25,581. I went to the chief capo with this letter and I asked him to give me this boy into my work detail, and that happened. That is, after he had got the letter. The boy told about this in his block and also in my block, -- this. And through that, the Russians got along well with me.

Q Mr. Retzlaff, do you recall the testimony of Leopold Landsberg who testified against you?

A Only too well.

Q Do you recall the names of the two prisoners which Landsberg claimed that you killed?

A They are the Russian Jews, Joseph Herschberg and Fisher Goldberg. At the end of January or beginning of February, I was supposed to have beaten them so badly in my work detail at Scharlach that they were supposed to have died as a consequence of the beating.

Q Have you made any investigation or check with regard

to these two men since the testimony you heard from this witness?

A Yes, I did. And I give my grateful wishes to the prosecution for having brought the camp records here. The books proved that I am innocent. I beg you, my counsel, to ask the prosecution to give me books 13 and 16. I would like to show them to the court and prove my case.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place.)

PRESIDENT: The court will come to order. Mr. McKay, you may proceed.

QUESTIONS BY MR. MCKAY:

Q Potzloff, when you refer to books 13 and 16, are you referring to Prosecution Exhibits 13 and 16.

A Yes.

Q I now hand you two books, the first is prosecution exhibit 13 and the second is prosecution exhibit 16.

A The one is Hirstberg, presumably Joseph Hersschberg or something that sounded like that, at least, that is the way Landsberger said it. There wasn't ever any Joseph Hersschberg in Flossenburg. I have looked and checked each number from 1 up until the 85 thousands. There is a Wolff Hersberg. He had the number 83,876. He was born on the 19th of January 1919. In March 3, 1945, he came to Flossenburg and on the same day, March 3, 1945, was transferred to Groditis. I, of course, never ran after this man in order to beat him to death. That is one proof. And now comes Goldberg, Fishel. He had the number 80,939. He was born on February 2, 1927 in Lelyaennstadt in Poland. That is now called to-day, Pedz. He came to Flossenburg on February 25, 1945 from Gross Rosen.. He died on Tuesday, March 20, 1945. Landsberg maintained that both of these introduced themselves immediately as coming from Arsen, and they were

supposed to have the number 148 and some tenths. This weak-minded prisoner thought since he had the number 15,396, and because he came to Flossenburg on the 4th day of the 4th month, 1944, - he assumed that those comrades must have had the same numbers, - the men whom he mentioned here and whom I am supposed to have beaten to death. That is how far his fox-like cunning reaches. But what he said is completely wrong. Because this Goldberg came to Flossenburg on the 25th day of February 1945 and I am supposed to have beaten him to death before that, - he had specified the end of January or the beginning of February. When Colonel Denson asked how I treated the prisoners, this man with the narrow mind said, "You can't find expressions for that in any dictionary". He wanted them to find a new word, but he could easily look in the old dictionary. And furthermore, he maintained that I had beaten these Jews in the hall Scharlach. It is a sad fact that the Jews were the weakest comrades in the camp. Even if there had been a hundred of them, the poor devils would never have had the strength of my twenty Russians, and I was supposed to have given these Jews, poor devils, the job of lifting up an airplane which weighed 20 to 30 centners, and for each one that would be 3½ or 5 centners weight to carry. Nobody needs to think that I am that dumb, that is just impossible. I won't talk any more. I do not understand what people can say against me here. There is no proof against me. Eleven witnesses appeared here for me on the witness chair. And if the court does not see my innocence here with these eleven witnesses who appeared and with my own testimony, then I am in a position to bring twenty more witnesses, - but I waived that. I would like

to help shorten the golden valuable time which is tearing at our hearts and nerves here. It is not necessary for me to go over this any more. The prosecution can check over the records the same as I did.

Q Do you recall the witness Kiesmschowski who appeared here and testified against you?

A Yes, just as well.

Q Had you ever known Kiesmschowski in Flensenburg?

A From block 6, - yes. In wing B, we lived together. We had the same locker together, locker 42. I was able to find out on three or four occasions that packages which my brother had sent me had been broken into and bread had been taken out; and beer ordered for me in the canteen which I had earned, - that was also taken. The first one I had any suspicion of was Helmut Haselhuhn, but he assured me that he never touched my belongings without asking me. He said, "Theo, if I need anything, I will come to you and ask you about it. I am still enough man to do that." He worked on the night shift. Kiesmschowski and I, we worked in the day shift. One night I came back home and my bread and my beer was missing again. I led Kiesmschowski in front of the entire prisoners of the block. I publicly called him a rascal. Later on, he admitted that he had taken it, after the block eldest had threatened him. The block eldest demanded that he give me back everything that he had taken from me; and after Kiesmschowski had done that, had been forced to do it, I gave the Russians and Poles everything that he had given back to me. That is the quintessence that I have to enjoy when Kiesmschowski comes to-day and with nothing but pure German hatred, he accuses me of having taken part in the common design. Just imagine, etween Christmas time and New Year's, in a period of time which is even sacred to a common criminal, -- and I was supposed to have beaten a man to

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quarry. A Russian had beat my head with a wrench for the following reasons: I was in the quarry in front of Hall 3, and I was looking up at the locksmith shop and I saw one prisoner beat another prisoner down to the ground with a big wrench. That was in the winter between 1944 and 1945. I was indignant and I ran up the hill and I saw that the prisoner was wearing a red triangle with the letter "R" on it, which stood for Russian. I tore the wrench out of the hand of this idiot and knocked him to the ground. Of course, he attacked me then when I said in Russian he should let the boy alone. I asked him whether that was Russian culture to beat helpless Jews here. And then he took the wrench and beat my head with it. Then I wrote a juicy report about him but I did not direct it to the SS. I directed it to the chief capo in order that he would relieve this good man of his duties. Then the following took place. When I came to the clerk's office, he laughed at me and said "How can you let them beat you". I went away. I was ashamed of myself. I went down to the quarry again and into the hall. Then the over-capo, Wittmann, came. He came with the small quarry capo, Jakubith. Jakubith said, "Then, you have written a report". "Yes", I said, "I wrote a report about this idiot". I said, "We haven't reached the stage where any strong man can pick on a weaker one and beat him, or beat him to death". Jakubith asked me about the lay of the land, - what had taken place, because he said that this man had been an assistant foreman with him. I told him how it had taken place and the old Pole was taken into the hospital. I explained all that. Jakubith said I should withdraw my report, - he would relieve the man of his duties. I said, "OK, I will take the

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death in this period of time, that is impossible. I can look every judge and every prosecutor in the eye and say I am no murderer. I am innocently here and I am terribly nervous. And I have been raped and beaten to such an extent, and I am living to-day in conditions which would fit a pig, that I would gladly like to wander back to Flossenburg on foot, because physically and mentally we had it better there. But that is why I am beside myself and I will not get my mental stability and my moral stability and equilibrium back again until my innocence is proved before this court. But then there is only one thing to-day if everything goes as it should go, and I hope that it will go here in this court, then I will have to be acquitted. I marched from Flossenburg to Dachau as an evacuated one, as a prisoner. I arrived here in Dachau with a small group of people who had survived the march, a small group of people which was horrifyingly small. There were Poles, Russians, Jews, - there were people of all nationalities, all kinds of people who had been beaten by the Third Reich at that time. All these prisoners were here at that time when I was here with the commandant who liberated the camp of Dachau, which I also went through. And now with the workmaster of Gross Rosen, at the present time, Oscar Mueller, - they certainly would have had to arrest me. Now on the 2nd day of the 6th month, they let me go home. I married for the second time in Coblenz and I thought that now I could begin to live again as a human being and recover myself. And then I got the decoration for humanity. I received that in Flossenburg in the following way: Otto Skorzeny said that one day I was brought into the clerk's office in the hospital from the

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quarry. A Russian had beat my head with a wrench for the following reasons: I was in the quarry in front of Cell 3, and I was looking up at the locksmith shop and I saw one prisoner beat another prisoner down to the ground with a big wrench. That was in the winter between 1944 and 1945. I was indignant and I ran up the hill and I saw that the prisoner was wearing a red triangle with the letter "R" on it, which stood for Russian. I tore the wrench out of the hand of this idiot and knocked him to the ground. Of course, he attacked me then when I said in Russian he should let the boy alone. I asked him whether that was Russian culture to beat helpless Jews here. And then he took the wrench and beat my head with it. Then I wrote a juicy report about him but I did not direct it to the SS. I directed it to the chief capo in order that he would relieve this good man of his duties. Then the following took place. When I came to the clerk's office, he laughed at me and said "How can you let them beat you". I went away. I was ashamed of myself. I went down to the quarry again and into the hall. Then the over-capo, Wittmann, came. He came with the small quarry capo, Jakubith. Jakubith said, "Then, you have written a report". "Yes", I said, "I wrote a report about this idiot". I said, "We haven't reached the stage where any strong man can pick on a weaker one and beat him, or beat him to death". Jakubith asked me about the lay of the land, - what had taken place, because he said that this man had been an assistant foreman with him. I told him how it had taken place and the old Pole was taken into the hospital. I explained all that. Jakubith said I should withdraw my report, - he would relieve the man of his duties. I said, "OK, I will take the

report back if you give me all the week hard-working Jews in the quarry and put them in my hall. Jakubith, I can say, was a good decent fellow and I can say that also he is innocent just the same as I am. And that also applies to many of the accused here, -- perhaps all of them. Jakubith said, "OK, you go away". And the Jews, the week Jews, came into the warm halls. They were so weak they couldn't do anything anyway. Brueckner came to me and said the following literally: "Theo, you acted like a brother to us. We hope that the rest of your life will always be good. They should give you the decoration for humanity". And I got this distinction. In Dachendorf, a Polish Jew said that I had beaten two of his comrades to death, but it isn't this Polish man who appeared here, not this Landsberger, no. This Jew worked in the florist shop in Dachendorf and this Jew lies. He met me in the market square in Dachendorf. My brother, the priest was present. Then he said to me, "Theo, are you still alive?" I said, "Yes, old boy, like you can tell from looking at me." He said, "Come on with me in the Jews camp, -- there are many comrades there." Naturally, I went along with him, and my brother went along with us. When we got into the camp, this man told five of his comrades there in the camp I had beaten two of his comrades there in the camp. He said that I had taken the food of the prisoners, whole kettles of it and had passed it in the black market for cigarettes. He said that I had mistreated my fellow prisoners for weeks so badly they were not able to walk. My brother had to stand there and watch them beat me up there. My brother asked me whether that was democracy because Americans were present there.

Q Retzlaff, how did you proceed from Flossenburg to

Dachau?

A On foot. We were hungry; we were freezing.

Q Did you have any kind of position on that march?

A Unfortunately, no, because if I had been a member of the camp police, I could have escaped, but as it was, I was not able to, because I didn't want to be shot to death in the last minute, in the 12th hour, as you might say.

Q When were you finally arrested by the Americans?

A 10 October 1945. One year ago to-day.

Q How long was it before you came to Dachau, the last time?

A Two and a half months, because I came to Dachau on the 22nd of December last year.

Q Since you have been here in Dachau, have you been interrogated?

A Three times.

Q By whom?

A The first time, by Mr. Berkowitz; the second time by the Polish first lieutenant, Stachosch.

Q And the last time?

A Twice by the deceased Colonel Shaw.

Q How were you treated during these interrogations?

A Mr. Jonas, the translator here, he was there. He was listening when Colonel Shaw said to me, "You were a prisoner in Flossenburg?" I said, "Yes". He said, "Weren't you an SS man?" I said, "Never". He asked me how I ever got here. He didn't know how I got here or why I was here. I told him that they were accusing me of having committed two homicides. He said, "Yes, there are several letters here which accuse you", but he said to me, "I don't know whether I should believe you or the letters." He said to me, "Metzlaff, don't worry, your

suffering will soon take an end. You will be released in one week.' The interpreter was present and heard it, but out of this week, a year proved to be the case. Whom shall I believe in any more, Mr. McKay. None of the prosecutors there harmed me. Nobody mistreated me. I believe that they even had compassion for me, because when Mr. Shaw left, he shook my hand. I understand what is going on. The charges are there. Everybody is doing his duty, but I am expecting acquittal. I came into the camp as a human being. I left the camp as a human being and I sit here as a human being and I am not besmirched with any design on any human being. Leopold Landsberger said to my second wife, said it to her face. He said to her, 'It is all the same, whether it is right or wrong, whether he is guilty or innocent, he must die anyway'. And now I would like to experience that, -- whether six officers of the American Army can sanction a Jew's denouncing and slander against a helpless prisoner, or whether they believe me as I am here: honest and open-hearted. I have given the court here a glimpse into the state of my conscience and what I have gone through. I have done that without any reservations. And if I am guilty, if you find one percent of guilt on me, please string me up on my neck. You will do a big favor in that noose. For us in the concentration camp, we people in the concentration camp, -- the life is helpful to us anyway. We are not pleading for our lives here, but we are pleading for our children and our wives at home, for what has been raped and taken away from us. And if there is one single murderer sitting here in the dock, starting from this Hathoi and ending with this poor Ginschel, if that were true, then I would point the murderers

out by name, but they are innocent, just as I am.

PRESIDENT: The court will be recessed for half an hour.

(Thereupon the court recessed at 1500 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: The court will come to order.

MR. ERVOWITZ: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson who is absent on business of the prosecution, all the personnel of the defense are present, all the defendants are present with the exception of Oemalt, Olschewski, Buddensieg and Jakobith who are sick in the hospital. The interests of those accused are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Direct examination continued.

THEODOR PETELAFF, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION Continued

QUESTIONED BY MR. MC KAY:

Q Mr. Petuleff is there anything else you want to tell the court that I have not covered with you?

A I have the sad duty now of having to attack one of the defense witnesses for me. He is Paul Tossmar. He said the following about the old Comrade Gieselmann. He said that he, Gieselmann, had broken all my ribs there in the clerk's office and had also broken my arm. Gieselmann never beat me in my life. If the court doesn't believe what I am saying now about Gieselmann I beg the court to have me x-rayed to see if there are any broken

ribs or fractures of my arm or any evidence of any such wounds having healed, or if ever I had them. The same thing holds true for the testimony against Karl Mahdi. I am a man who has a knowledge of human beings to some extent. The fact that I am only thirty-four years old doesn't have anything to do with that. I am not young anymore. The impressions and attempts which took place against Karl Mahdi have as their source the most mean malice that I have ever experienced in my life. I am not attacking the two defense witnesses for me who wanted to make a widow out of my wife. With all my heart I forgive them for that now. But I don't and cannot forgive Paul Toerner unless he would recall what he said here against my two comrades. I cannot forgive him for this for the following reasons. The two who put the finger on me are foreigners and under the Nazi dictatorship they suffered a great deal. Naturally it is the fault of human beings that these two people now are malicious and for this reason they are trying to send the Goddess of Revenge into the house. But Paul Toerner drank the same milk out of a German mother the same as I did and he sits out of the same bowl and he has the same temperament as we, and for that reason in my eyes Paul Toerner is a very low slanderer. I was amazed over his testimony. I regret ever having called him here as a witness. I beg the court's permission now to speak here for an old S. A. man.

PRESIDENT: Go ahead.

THE WITNESS: Witness No. 24 Lonah, my fellow prisoner, did a great deal of good for me and my twenty prisoners. For example: In the winter of '44 I had a cooking kettle which weighed 32 centimeter. I had to carry this kettle from the quarry

to the pig pen. The street was frozen very hard and also I had the twenty-two strongest Russians and Poles. We could not bring the heavy kettle on the wagon up this steep grade. The old Losch came along the road with his vehicle. He drove off to the right side of the road so he could overtake me on the left. He saw that we were in trouble and couldn't do it. He said, "Who is in charge of this column?" I said, "I am." He said, "Attach your wagon to mine. My horses are stronger than these twenty people." And I did that. After we had traveled a short distance of eight or nine meters, it happened, as bad luck would have it, that Koegel came up then. He was indignant about it all, that the SS man was helping us and he said, "Who is in charge of this column?" I said, "I am." And he said, "What do I have those fat prisoners for -- what do I have them there for. They are supposed to push the wagon." And he scolded old Losch. I had to unhook the wagon again. Losch drove off and looked dumb. The Commander went back his way into the camp. I stood for ten minutes in the same spot I had when Losch left us. Losch went up his way to the horses' stall and came back with two horses. To my great amazement the old man hitched up the two horses in front of my vehicle and asked, "Where is the Commander?" I said, "He shot off into the wind. He is gone." He asked me whether I can see him because the old man cannot see very well. He asked whether I could see him. I said, "He is invisible. He has gone back to camp." He said, "Well then I can go ahead and bring you up the hill." The horses' stall where Losch had to keep his horses is that next to the pig pen and that is where the kettle is supposed to end up.

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That is one case. I often had to work on Sundays because I had the strongest people with me and because these 20 men often got 60 to 80 liters of food -- but only on Sundays when they had to do special work. The old Lossh on Sunday had to drive airplanes and airplane wings from the railroad station into the quarry and he had to unload these. On the potato and vegetable wagon of old Lossh there were small individual potatoes scattered around and my Russians took these potatoes for themselves and cooked them later on in the block. Once Lossh saw that and he went away and shook his head. The next time he came back on Sunday he had a potato bag with him. He called me over to him and he said, "There are potatoes lying in there. I cannot take them myself but you take them." I said, "Everybody should get a share of them and they should be distributed equally among everybody." That happened four or five times with Lossh.

Once I wanted to give Lossh a pack of tobacco which I received in a package. I wanted to do this because I was grateful to him. He looked at me and said, "Why give me this tobacco?" And I said, "Because you are a father to me." He said, "I don't want to take the tobacco from you because you are poorer than I am." That is all I have to say about Lossh.

Q Is there anything else?

A I beg the Prosecution now to take me into cross examination and give it to me as much as he wants.

PRESIDENT: Mr. McKay the court would like Goldberg's number.

MR. MC KAY: 80999

PRESIDENT: Are you finished with cross, direct examination?

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MR. MC KAY: I have finished.

PRESIDENT: Dr. Nachen.

DR. WACKER: May it please the court I have a few questions to ask the witness, Potulaff, for Sonnenfeld who was also assaned by the witness Landsberg.

PRESIDENT: Proceed.

QUESTIONS BY DR. WACKER:

Q Do you know from whom to whom Landsberg was a prisoner in Flossenburg?

A On the fourth day of the eighth month 1944 he came to Flossenburg. He was there until the 17th of April.

Q Did you find that out by looking at the books?

A Yes.

Q What else is marked down there with regard to Landsberg?

A That he was born on the ninth day of the sixth month 1910 in Warsaw -- that he had the number 15996.

Q Was he with you in the block?

A No, in the same detail. He worked in the hole while I was outside.

Q When did they first propound you with the first accusation that Landsberg brought forth?

A In April, Colonel Shaw did it.

Q Do you know whether or not he wrote a letter to Colonel Shaw containing these accusations?

A I don't know that but it was impossible for the following reasons ---

MR. BROWNE: I object to any further testimony along that line. It calls for a conclusion on the part of the witness.

PRESIDENT: Please read the question.

(Whereupon the question was read by the reporter.)

MR. MACON: I beg that the witness be allowed to tell what he knows about this already. If it turns out to be something that has no connection with the case then the answer can be stricken out of the record, but for the time being we have a right to know what the witness has to say.

MR. [illegible]: The witness said that he did not know.

PRESIDENT: Repeat the last answer of the witness again.

(Whereupon the last answer was read by the reporter.)

PRESIDENT: The objection of the Prosecutor is overruled.

THE WITNESS: This is what Landsberg stated to Colonel Shaw. He said that one day in front of the hill I beat him so badly that he could hardly stand up on his feet again. The following reasons are proof that that is not true and could not be written down in writing. He was sitting here and they asked him whether I had ever mistreated him. I must constantly repeat the same reason. He couldn't say 'yes' because I said to him at the occasion of his appearance here outside of the building after he had said to me that I would be hanged, I said to him, 'Be careful, I could bring 50 witnesses myself and you are digging your own grave.' If he had put down something in writing then he would have to back it up in order not to commit perjury here in front of the court.

Q Do I understand you correctly, that at that time Landsberg was present in front of Colonel Shaw?

A Yes.

Q Did he mention at that time that you had beaten him bloody?

A I cannot answer that question with a clear conscience before God.

Q But here in the courtroom he did not mention this reproach again, did he?

A He was too clever as a fox to do that.

Q At that time, what was said before Colonel Shaw, was that taken down in writing?

A Oh yes.

Q Did they ever show you this written writing?

A No, because I wouldn't have gotten anywhere with that.

Q In this written document does it stand written that you had beaten him bloody?

A It may stand in it but well --- I know what the score is --- Colonel Shaw is dead.

Q Do you mean to say by that that the written record is no longer available?

A Doctor, you can see horses vanishing here.

Q At that time did Landsberg speak German or Polish?

A Landsberg speaks German just as well as I speak Russian, and that is about 90 percent. Just as he said Klammethould pretend that they cannot speak German here -- they surely speak good German -- because of obvious reasons.

Q Retzlaff, in the course of your interrogation you said that you had been beaten in a florist shop and they had reproached you then with the fact that you were supposed to have beaten two Poles to death, was that Landsberg?

A That is a misunderstanding on your part, Doctor. The one who put the finger on my was unknown to me. That was not Landsberg.

Q Do I understand you correctly now? At that time when you were being beaten it was not Landsberg who beat you but it was someone else who did it?

A Yes.

Q After the liberation of Flossenburg did you see Landsberg here for the first time in Dachau?

A Yes. Because I am finally convinced that my first slanderer, my first denouncer, wrote him a letter and informed him about it all because he said just about the same thing as that other one up there. My wife knows this man's name because he did not hesitate to say to my wife, "It does not matter whether it is right or wrong, whether the man is innocent or guilty, he will be hanged now, we all die."

MR. BENDOWITZ: May it please the court I ask that the answer be striken from the record as a conclusion on the part of the witness based on no knowledge of his own.

PRESIDENT: Mr. Bendowitz will you be a little more specific as to just to what you are referring. The entire answer?

MR. BENDOWITZ: I refer to the part of the testimony where he says, "I know that the man who denounced me wrote a letter to Landsberg and Landsberg wrote a letter to Colonel Shaw", because of a similarity of charges, that is a conclusion of the part of the witness.

PRESIDENT: Mr. Reporter willyou read the last answer of the witness?

(Whereupon the reporter read the last answer.)

MR. BENDOWITZ: I ask that the answer up to the words, "up there", be striken.

The court included the words, "up there".

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PRESIDENT: Read the answer again.

(Thereupon the reporter read the answer.)

DR. HACKER: In order to clarify this point to make a decision about this matter I beg the court to allow the witness to say whether or not he can back up what he has said, whether he has clues enough for that.

MR. BERKOWITZ: The witness said he was convinced of it because of a similarity of terms. That is a mere conclusion on the part of the witness.

DR. HACKER: I have to object to that. The witness was not finished with his explanation. He said that he was finally convinced. Now, I assume he is going to give the reasons why he was convinced. If he does not have any reason for it then it can be stricken, but if he gives a plausible reason for it, I beg that it be left in the record.

PRESIDENT: The court will hold your motion in abeyance, Mr. Berkowitz, for the time being. The court will give the witness an opportunity to explain his remarks.

Dr. Hacker, you can form the question in order to clarify this point.

QUESTION BY DR. HACKER:

Q How do you get to this conviction?

A It is impossible among human beings that two will say the same thing unless they have already arranged it before hand what they are going to say. What is this anyway? The one up in Deggendorf, whom he says to me these reproaches and then Lemelsheng appears here with Colonel Shaw and says he has given the same thing, which had as the essence, whether it is right or wrong, whether he is innocent or guilty, he should be hanged -- I ask you -- what is that?

MR. BERKOWITZ: I ask that that part of the testimony be stricken.

PRESIDENT: Are there any further questions on this matter?

DR. WACKER: I must oppose this motion and beg that it be considered whether or not this testimony, this answer of the witness, does not have something to it.

PRESIDENT: The motion of the Assistant Prosecutor, Mr. Berkowitz, is sustained. For the benefit of the witness, the court has taken this action upon the basis of a statement based upon opinion and a conclusion.

THE WITNESS:

My wife could explain this conclusion, Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q What is the name of this Jew in Deggendorf?

A I would like to know that myself, Doctor.

Q Did he ever appear here as a witness against you?

A No, and I asked why didn't he come? Where is he? Why not?

Q Where is Deggendorf?

A That is 160 kilos distant from here. It is between Straubing.

Q Is that also a D.P. camp?

A No. Deggendorf is a city. There was a small Jew camp there.

Q Is that also in the American territory?

A Yes, and the Jew works in the florist, Lusak, that is the name of the florist shop.

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Flems.

Q Then you were interrogated by Colonel Shaw did you mention this incident?

A Colonel Shaw did not give me any chance to make an explanation then on that occas. This incident was not under discussion, no.

Q That is all?

A And Colonel Shaw wanted to release me eight days later.

PRESIDENT: Is there any further direct examination by the Defense?

MR. MC KAY: Nothing further sir.

PRESIDENT: Cross examination by Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now Mr. Metzleff you were interviewed by Colonel Shaw on two occasions, is that correct?

A Yes.

Q And on the first occasion you had quite a lengthy conversation with him, did you not?

A But only about my personal circumstances and my beautiful native land because he had been there eight days before the interrogation started and he told me how my native land looked. Mr. Jonas the interpreter over there (indicating) is witness of that.

Q Did you on that occasion tell him that you would be denounced?

A Of course.

Q Did you tell him who denounced you?

A I couldn't do that Mr. Prosecutor because I did not know the name of the man.

Q Was the name of the man who denounced you mentioned at the interrogation at Deggendorf?

A Never. They beat me up so badly that my ears and eyes were gone.

Q Do you remember whether the name was ever mentioned to you?

A I never heard this name in my life. I can give you the address of my wife, she knows him.

Q Did you give that information to your defense counsel?

A Whether it was ten or 20 times I don't know, but my wife could give a full explanation. My wife could explain a lot of things here.

Q Mr. Retzlaff, I will read you a transcript of the second interview you had with Colonel Shaw and I will ask you if this is correct.

MR. MC KAY: That is opposed to. I have no assurance and no knowledge that there was a second interview other than a statement by the Prosecution unless we can show that it is signed by Colonel Shaw.

MR. BERKOWITZ: That is just why I am asking the witness. I want to find out whether it is correct or not.

PRESIDENT: Will the reporter please read Mr. Berkowitz's question.

(Whereupon the question was read by the reporter.)

DR. SACKER: For my part I must take measures against an oppose to the motion of Mr. McKay because I have the greatest interest in having the record of this second interview with Colonel Shaw read and have it taken up in the record.

MR. MC KAY: If it is a record, alright, but I want some assurance that it is.

MR. BERKOWITZ: The witness has already testified about that interview. I want to find out if the notes I have here are true and correct and whether this is a transcript of that testimony. I do not know. I have in my file a paper marked 1 May 1946, Flossenburg. These are questions asked by Lt. Col. Shaw of the witness, Mr. Landsberg. It begins with the question, "Mr. Landsberg, do you know the man standing before you?"

PRESIDENT: Just a minute. Mr. Berkowitz, is the transcript of the record available for the Defense at the present time?

MR. BERKOWITZ: If the Defense cares to look at it before I read it I will withdraw the question.

PRESIDENT: The Court understands that this is simply a portion of the transcript or notes taken from the transcript itself, is that correct?

MR. BERKOWITZ: This is a typewritten sheet showing the questions asked by Lt.Col. Shaw of Mr. Landsberg in the presence of the defendant. He has testified as to what took place during that interview. I want to ask him if this is a true record of it. I do not know. To save time, however, I will withdraw the question and rephrase it.

COLONEL WILSON: May it please the Court, this is another of these situations that arises occasionally when one of the associate Defense Counsel takes one point of view and the other takes another. Mr. McKay

has opposed Dr. Hacker, who has asked that the matter be brought in. I think the matter might be clarified if we would be permitted a moment, if Mr. Berkowitz has no objection, to look at it before the Court rules. As Chief Defense Counsel I cannot favor one associate Counsel against another. I would like to know what the background is a little more.

PRESIDENT: Are there any objections, Mr. Berkowitz?

MR. BERKOWITZ: As I stated before, I will withdraw the question and proceed in a different manner. However, I have no objection to their looking at this.

PRESIDENT: The Court will take a recess in place.

(Whereupon a recess was taken in place.)

PRESIDENT: The Court will come to order.

MR. BERKOWITZ: I withdrew my last question.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Retzlaff, on the second occasion of your interview with Colonel Shaw was the witness, Landsberg, present?

A Yes.

Q Do you know the date of that?

A That could have been the end of April or the beginning of May. Landsberg was not interrogated like that in my presence. He merely threw things in my face and made reproaches and it is not written down.

Q When I ask you a question will you please answer my question and confine you answer to that.

A Yes. Mr. Landsberg was standing there when Col. Shaw asked him the following question: "Mr. Landsberg, do you know the man standing before you?" Exactly, that is correct.

Q Did he answer, "Yes, I know him only as Theo?"

A Yes

Q Did Colonel Shaw ask Mr. Landsberg, "Were you in Flossenburg in February 1945?", and did Landsberg answer, "Yes?", and did Colonel Shaw ask, "Did you ever see him beat anyone?", and did Landsberg answer, "Frequently?"

A That is correct.

Q Did Colonel Shaw then ask, "Do you know Josef Herschberg and Fisher Goldberg?", and did he answer, "Those were my comrades?"

A That's right too. But I can explain that to you immediately.

Q First answer my question. Is that what took place?

A Yes. I already answered your question.

Q Did he ask him, "Did you see him beat those men on the work detail in February 1945?"

A I would like to give you an explanation on that now.

Q Will you answer my question. Did he or did he not ask that question of Mr. Landsberg in your presence?

A It was the other way around, Landsberg was at one house conducting the interrogation and not Colonel Shaw, Mr. Prosecutor.

Q Will you answer my question. Was that question asked or not asked? Was it answered or not answered in the manner in which I am going to present the question again?

A Never. Later on I will give the Court an explanation upon that.

PRESIDENT: The witness is cautioned at the present time that the Court will give him an opportunity later to explain.

(Petuleff-Cross)

THE WITNESS: Yes.

MR. BERKOWITZ:

Q Did he then ask, "With what?", and did Landsberg answer, "With a heavy club?"

A Never.

PRESIDENT: Just a minute, Mr. Prosecutor, there is some confusion as to just who is putting these particular questions.

MR. BERKOWITZ: I have already stated that these were questions by Colonel Shaw answered by Landsberg in the presence of the witness.

PRESIDENT: Then the Court understands that these questions were presumably asked by Colonel Shaw of Landsberg?

MR. BERKOWITZ: Yes, in the presence of Retzleff. If the Court please, the witness has already given some testimony as to what took place at the second interview and I am asking him these questions to find out if this is what took place or not.

PRESIDENT: Proceed.

MR. BERKOWITZ: Will you read the last question, please?

(Whereupon the last question was read.)

QUESTIONS BY MR. BERKOWITZ:

Q Was that question asked and answered in that manner or not?

A That is just the other way around, Mr. Prosecutor, the rabbit is running in the other direction.

Q Will you please answer my question, "Yes" or "No".

PRESIDENT: Just a minute, calm yourself, Mr. Berkowitz.

MR. BERKOWITZ: Sir, I just want to know whether the interview took place or not.

PRESIDENT: I will not have the witness browbeaten.

MR. BERKOWITZ: I was not browbeating the witness.

PRESIDENT: The Court felt that you were.

MR. BERKOWITZ: I am sorry, sir.

QUESTIONS BY MR. BERKOWITZ:

Q Did Colonel Shaw ----

PRESIDENT: Just a minute, Mr. Berkowitz, there is evidently some confusion on the part of the witness and some confusion in the minds of the Court. I think that your questions could be phrased in another way.

PRESIDENT: (Discussion off the record.)

PRESIDENT: (On the record.)

QUESTIONS BY MR. BERKOWITZ:

Q In the course of that interview did Colonel Shaw ask Mr. Landsberg, in your presence, "Were those men able to walk back to their block at night?", and did he answer, "No, he had to carry them?"

A That answer was just said the way it was first put, but only after Landsberg had long since explained the whole thing to Colonel Shaw.

Q Were you present when this interview took place with Colonel Shaw?

A Never. Otherwise I would eternally say "Yes" to your questions.

Q Did you not say a moment ago that you were present when Mr. Landsberg was interrogated by Colonel Shaw?

A Landsberg was the one who accused me. I am amazed

that the stuff was written down.

Q Will you answer my question please. Were you present when Mr. Landsberg was interrogated by Colonel Shaw?

A I didn't take part in the first interrogation.

Q Was Mr. Landsberg interrogated by Colonel Shaw in your presence?

A Which one are you talking about, Mr. Prosecutor?

Q Was Mr. Landsberg ever interrogated by Colonel Shaw in your presence?

A He asked Landsberg the questions but, Mr. Prosecutor, this second interrogation must have been preceded by a first interrogation. It is obvious because Colonel Shaw was never in Flossenburg and he listened and acted as though he knew all about it.

Q Will you please answer my question.

A That is the best answer I can give you.

MR. BERKOWITZ: I ask that the answer be stricken as calling for a conclusion on the part of the witness.

THE COURT: The motion to strike is denied.

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Hetzlaff, how many times was Landsberg interrogated by Colonel Shaw in your presence?

A Once.

Q And you do not know anything that transpired in any interrogation that Colonel Shaw had or may not have had with Landsberg when you were not present, do you?

A The only thing that could have taken place was what repeated itself later on because how else could Colonel Shaw ask Landsberg questions if he did not know anything else about it?

(Hetzlaff-Cross)

Q Do you personally know what transpired in any interrogation that Colonel Shaw might have had with Landsberg when you were not present?

A Of course. It is obvious. Any fool can see that the first interrogation preceded the second one.

Q Didn't you just say you were just present at one interrogation of Landsberg?

A I would never have been charged with anything if Landsberg hadn't already had an interview with Colonel Shaw and told him these things and told him, "It is Retuleff."

Q Please answer the question again. Do you know of your own knowledge what transpired during any interview with Landsberg conducted by Colonel Shaw, at any other time except when you were present?

A For me there is no other explanation except the fact that the second interrogation was preceded by a similar first one.

Q Do you know what might have transpired at any first interrogation?

A In the second interrogation they anchored tightly the accusation which had been first discussed in the first interrogation.

Q I will ask you again concerning the interrogation at which you were present, the interrogation of Mr. Landsberg by Colonel Shaw on or about the first of May 1946. Was the first question in this interview the following: Colonel Shaw asked Mr. Landsberg in your presence, "Mr. Landsberg, do you know the man standing before you" and he answered, "Yes I know him only as Theo?"

A Yes, that is right.

Q Then did Colonel Shaw ask Mr. Landsberg in your presence, "Were you in Flossenburg in February 1945" and he answered, "Yes"?

A Never. I don't want to attack you, Mr. Prosecutor, but I just said, "Never". I want to give the Court an explanation about this and I can prove it later.

Q During that interview was anything said by Mr. Landsberg about your beating him?

A Yes, but where is the proof of that here on the witness stand, Mr. Prosecutor? If you can present this to me then I would have respect for you.

MR. BERKOWITZ: May it please the Court. Will the Court please instruct the witness to answer the questions and not argue.

PRESIDENT: Proceed Mr. Berkowitz.

THE WITNESS:

This is the greatest bartering of cows that I ever saw when you take in the fact that my head is at stake.

PRESIDENT: Proceed Mr. Berkowitz.

QUESTIONS BY MR. BERKOWITZ:

Q In the first interrogation with Colonel Shaw you parted friends, did you not?

A He did not consider me a murderer and he shook my hand.

Q At that interview did Colonel Shaw ask you questions about how you came to Flossenburg?

A Yes.

Q Did you tell him the truth?

A Not on the first point.

(Metzlaff-Cross)

Q Mr. Metzleff, you testified that you helped your comrades and carried them to the hospital when they were wounded.

A Of course.

Q How many times did that occur?

A Are you just talking about Flossenburg, is that correct?

Q I am referring to a matter about which you testified this morning.

A Yes, Mr. Prosecutor. I believe that when I was in Flossenburg I carried six or seven in the hospital, but in the whole time I must have carried 40 or 50.

Q The six or seven in Flossenburg, were they members of your detail?

A The first case took place in hole No. 7. I had just come into the hole and there was a Russian lying on the ground sick with the fever and I took him into the hospital.

Q Do you remember the date?

A That couldhave been between the 1st and the 8th of August.

Q Do you remember his name?

A I ask for just a second in order to think about it - Mitka.

Q Mitka what?

A Mitka, that's all. It is called Bassilly in Russian and in German it is Figor.

Q What is his first name?

A All my people I only knew with their first names, just the way they addressed me too.

Q What was his number?

A The number was somewhere between 17,500 and 17,600

somewhere in there because they were the only numbers I had and they were Russian Officers who were prisoners of war.

Q Was the second occasion also a Russian prisoner of war?

A The second case was the Jew who had been beaten by the Russian with a wrench. His head had been beaten.

Q Do you remember his name?

A I know the Jew a little.

Q Do you know his name?

A No.

Q Do you know the date?

A In the winter of 1944. I consider that all very natural, Mr. Prosecutor, I only did my duty as a human being.

Q Now let us take the third case.

A How many more cases do you want me to tell about?

Q I just want to know the names.

A I cannot give you a single name here. Whenever someone does a good thing the well-doer always runs without a name.

Q Do you remember the numbers?

A No. If I had known that I would appear like this before you today I would have brought you several numbers and names -- several hundred.

Q Do you remember the dates?

A We all lived in the camp without conception of time and none of us were normal in the camp and we only had one fear, the crematorium.

Q Then you would have difficulty recalling the names, dates or numbers, is that correct?

A It is not hard for me. I never did notice the names, otherwise I would have kept them in eternal memory. Mr. Prosecutor, if you would go and look for the Jew and bring him

back then you would have an explanation about that.

Q Were you familiar with these charges against Kitemschowski at the time he appeared on the stand against you?

A Unfortunately no.

Q Did you not say that he stole from your locker?

A Yes, but I believe that this man came here and testified out of malice and is putting a world at my feet. He is one of those DP's. I did not even know the name of Kitemschowski before he appeared here. I was amazed at this little fellow.

Q - Do you recognize him?

A Yes.

Q At that time did you know that he had stolen from your locker?

A I wrote that down on a piece of paper and gave it to my Defense Counsel. He asked the question and the professional judge up there (indicating) also asked the question. When he first entered this hall I knew that the hour had struck.

Q When did you come to this transport commander that had the duty of transporting parts of dismantled airplanes?

A In the beginning of August 1944.

Q How long did you remain with it?

A Until 24 March 1945 -- that was on a Saturday.

Q During that period you were the group leader?

A Approximately eight days after I ended up in the transport detail I was given that position on the basis of my knowledge of links.

Q You continued on that detail as group leader until the 24th of March 1945?

A Yes.

Q On the 20th of March 1945 you were then still a group leader in that detail?

A Mr. Prosecutor I already told you up until Saturday the 24th of March. I understand you. I know what you are driving at. You are talking about the dead man who was supposed to be beaten to death on the 20th of March, on a Tuesday. You see how easy it would be for me to say now that I have been relieved of my duties earlier, but I am telling you the situation as it was. You cannot prove anything against me.

Q I am asking you, were you a group leader in that detail on the 20th of March 1945 or not?

A Of course.

Q Will you describe the nature of the work done by that detail.

A Every morning after we had marched into the quarry I drove over to Maurer. He had the wood yard and the coal under his direction and I would distribute them to the various details. After I had got this fuel in my hands I distributed it to the seven various holes. Then it all depended, would material come from the railroad station or would it not. If the material came then we did the work, and if the material did not come, then we would sit down in the room and take it easy and gossip or the people would sleep, as the witnesses here have verified, Zimmerman, Seiler, they all saw that.

Q Then when the planes came in you hurried the work, is that right?

A Of course.

Q And you had a detail of 20 men, is that correct?

A Yes.

Q Were these 20 men sufficient on all occasions to transport the parts of the planes as required.

A I could have done it with ten.

Q Were 20 men sufficient at all times to transport the parts of the planes?

A Of course.

Q And you never had to call for any aid from any other men to assist these 20 men in the transport of the parts of the planes?

A I never even had to go and get these doubtful six from the holes because I had my own 20 men to do it.

Q Will you answer my question.

A That's the best answer I can give.

Q Were 20 men sufficient on all occasions to transport the parts of the plane?

A Yes. And sometimes all I needed would be six or seven or ten men of them.

Q Did you on any occasion ask others to assist your detail in transporting these parts of airplanes?

A No. It is the other way around.

Q On no occasion?

A Just please give me a second, Mr. Prosecutor, then I will give you your answer. Since I had 40 people -- that's the way the cases were with the good old Lowah over there because there were eight wagons traveling. Sundays these wagons would

be free and Monday they were distributed among the various work detail. Then I had 40 people and one hundred liters of food for them and everybody was happy to come to Theo, but only on Sunday.

Q Will you please answer my question. Did you or did you not on any occasion require the assistance of any other people besides your regular detail to transport parts of planes?

A In the quarry or in theSchaller hall?

Q You tell me.

A That's fine. In the quarry on Sundays I had these 40 people. In detail Schaller I also had my 20 people, strong Russians and Poles.

Q Then did you ever have anybody working under you other than these 20 Russians and Poles while you were in this transport commando?

A No. Not even one Jew because the poor devils were too weak.

Q Did you ever have any Czechs.

A Never one in the transport commando.

PRESIDENT: The Court desires to see the Assistant Prosecutor and similar Defense Counsel at the bench.

(Discussion off the record.)

PRESIDENT: The Court will adjourn until 0900 hours tomorrow morning.

(Whereupon at 1700 hours the Court adjourned until 0900 hours the next day.)

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First Duplicate

Legal Form No 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Case No. .....

~~Supreme~~
~~International Military Court~~
*General

Place DACHAU, GERMANY

Date 11 October 1946
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:

THEODOR RETZLAFF
ADAM DUDA

Pages 4978 - 5039 Incl.

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH RUPPERT, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

11 October 1946 0900 - 1700 Hours Pages 4978 - 5039 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
THEODOR RETZLAFF		4981	4992 4994	5001	5000
ADAM DUDA	5002 5012 5017	5018	5027		

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-19	Map of Block 12	5010	

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Camp Dachau, Germany
11 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

DR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Denson who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Mr. Hall, who is absent on business of the accused. All the accused are present, with the exception of Buedensieg, Lucherski, Oswalt and Jakubith and Lipinski, who are sick in the hospital, and whose interests are being taken care of by their counsel, and Dr. Berkowitz who is conferring with counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross-examination. Dr. Berkowitz.

DR. BERKOWITZ: At this time the prosecution wishes to call attention to the court of an error which appears in the record concerning the spelling of the name of a witness who appeared 16 July. Beginning at page 1546 and throughout the record, the name is spelled as Landsberg, L-A-N-D-S-B-E-R-G. It should be Landsberger, L-A-N-D-S-B-E-R-G-E-R. This is confirmed by the number of the witness which is given in the record and also as shown by the camp roll. The correct spelling of this name is L-A-N-D-S-B-E-R-G-E-R, and

I move the court the record be corrected accordingly.

PRESIDENT: That presents a very great question, Mr. Berkowitz, because the name, as recorded by the various members of court, during the time this individual appeared on the witness stand was Landsberg, that is Landsberg, Leopold. Now, that name is not only contained in the notes of the various members of the court, but also the court is under the impression that that is the way it is shown in the court record. That is the way it was translated by the interpreter and that is the way that it was indicated by the reporter, from the testimony of the witness himself.

MR. BERKOWITZ: On the record, page 1654, he gives his serial number. That serial number, as shown on the rolls of the camp, is the same, and the first name, Leopold, is the same. There is either some error in the reporter's recording, or the interpreter's translation, or the questioner at that time, so that there was an error, and I am calling the court's attention to it at the present time.

PRESIDENT: What is the serial number?

MR. BERKOWITZ: 15,996.

PRESIDENT: Is that taken from the testimony of this particular witness?

MR. BERKOWITZ: Yes; it is taken from the testimony as appearing on page 1654.

MR. MURRAY: If it please the court, I must resist Mr. Berkowitz' motion for the reason that there is no assurance that the name as contained in Prosecution Exhibits 12 to 19, which are the camp rolls, are correct. In fact, there

are some questions regarding whether or not changes have not been made in them. Therefore, the witness himself is the best evidence and he has given his name as contained in the record. There is no assurance that these car rolls are all correct.

Dr. Wacker: I am very much interested in this witness Landsberg on behalf of Sommerfeld, -- as far as I am oriented about it, he also resists the testimony given by this Landsberg. There is a possibility of perjury and if there is, there might be consequences that this Landsberg might have to carry. For that reason, it appears to me, difficult to change this man from "borg" to "berger" now because of a possible later procedure against him. I believe there is no other choice than to recall this Landsberg as a witness.

PRESIDENT: It is the recollection of the court that the name of this witness was listed as "Landsberg" by the prosecution. And during the time that particular witness appeared on the stand, his name was interpreted as being "Landsberg" and the record so indicated this.

MR. BERKOWITZ: I don't know how that happened. It was an error on the part of the prosecution, defense, reporter, interpreter or with the witness. I am merely calling the court's attention to that, inasmuch as the man has been referred to as "Landsberg" and as "Landsberger". But the serial number is the same and the first name is the same. The question concerns the "er" at the end of his name. In the absence of the particular witness, I am unable to give the explanation how that occurred; but I do call the court's attention to it and ask if the record may be changed to show that these are one and the same person.

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MR. MCKAY: May it please the court, I must restate that because there is no showing that they may be one and the same person.

MR. BERKOWITZ: That is the same question I wanted to bring out. It cannot be proved that his name is actually Landsberger.

PRESIDENT: Mr. Berkowitz, there is a grave question in the mind of the court as to the suitability of these particular camp records. They passed through too many hands.

MR. BERKOWITZ: I will withdraw the motion and just merely call the matter to the attention of the court.

PRESIDENT: The court appreciates the facts, Mr. Berkowitz, and that you have gone back into the records at the court's instructions of yesterday. The court will defer the matter until there is more positive evidence. Continuation of cross-examination.

THEODOR REHELAUS, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION CONTINUED

QUESTIONS BY MR. BERKOWITZ:

Q Now, Rehlaus, you carried a club?

A Never a club.

Q Did you carry a rubber hose?

A Never.

Q Did you use a club?

A Never.

Q Did you use a rubber hose?

A Never.

Q Did you use a metal bar?

A Three times never.

Q How did you treat the prisoners at the Block, Block 6?

A I read their letters and distributed my packages which

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regret to-day, because that caused hatred and envy and I still was accused by them.

Q Caused hatred and envy of whom?

A By those whom I fed, Wiesmeiowski and Landsberger, of course.

Q You fed all the prisoners?

A No, I couldn't do that, I didn't have that much myself.

Q You had good friends in the block, is that right?

A In the whole camp, my witnesses testified to that.

Q You had no enemies in the block?

A Enemies, -- the best man have enemies. Even suppose one man can sit quietly in a corner all the time, one still would have an enemy and be accused by someone.

Q Did you treat all prisoners alike?

A That you cannot do, psychologically that is impossible.

Q Did you treat some brutally?

A No. Do you think that I am a brutal man?

Q Answer my question.

A That is the best answer I can give.

MR. BERKOWITZ: I request the court to please instruct the witness to answer my question.

PRESIDENT: Will the reporter read the question and the answer.

(Thereupon the reporter read the question and answer.)

PRESIDENT: The court feels the witness has answered the question, Mr. Berkowitz. He said "no".

MR. BERKOWITZ: When the question was interpreted, I did not hear the "no".

Q Did you strike some prisoners with a metal bar?

A Never.

Q Not at the work?

A Never.

Q Not in the block?

A Never.

Q Do you know if you had a prisoner named Hopfinger working with you?

A Not that I know of. May I know the nationality?

Q He was a medical doctor.

A There was doctors working with me, Russians and Poles.

Q Didn't a doctor named Hopfinger work for you at sometime in January 1945?

A For me? How should I understand that? We had to work in the national socialistic criminal government. We were forced to do it.

Q Will you answer my question.

A How can a doctor work for me?

Q Do you know whether or not he worked for you?

A I don't even know the doctor.

Q Did you have any Czechs in your block?

A Many.

Q How did you treat them?

A Just like the others.

Q How was that?

A I treated them like human beings, happily and lustily and cheerfully, day and night, if it had to be. Mr. prosecutor, may I have the book. Perhaps I can check the name and number of the prisoner whose life I saved. I didn't want to talk about it yesterday, but I do to-day.

Q Give that to your counsel. Did you know a prisoner by the name of Lattimer Patrick?

A I know him by name. I am surprised he did not come here to accuse me. I read he wanted to accuse me, but he cannot

do it.

Q Did you beat him?

A I don't even know him.

Q Do you know a Polish prisoner by the name of Stanislaw Rozum in the block?

A That same thing goes for that man. I read his name in my charge sheet, but he didn't appear here.

Q Do you know him?

A I know the name. I know that he was here.

Q Did you beat him?

A That is out of the question. I wouldn't even think of beating this man.

Q Did you beat him?

A Never.

Q Did you know Paul Hrekowzm in the block?

A That also goes for him. That is the third case. Why don't these people appear against me, Mr. Prosecutor?

Q They will be here. Just answer my question. Do you know him or not?

A That is the third case of a man whom I don't know. I know the name but ....

PRESIDENT: What do you mean by that remark, Mr. Berkowitz: That he 'will be here'? Are you calling him as a rebuttal witness?

MR. BERKOWITZ: Yes.

Q Did you take food from some of the prisoners to give it to some of your boy friends?

A I should like to have a minute to think over the names.

PRESIDENT: What do you mean by 'boy friends'?

(Petzlaff-Cross)

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PROSECUTION: I can sustain it by the law. I do not know whether the court agrees, but I am willing to show the court that the utmost latitude is supposed to be accorded to the counsel on cross-examination and if there is any ambiguity in its questions, it is up to the person finding that ambiguity to bring it out. That is the law, may it please the court.

PRESIDENT: That may be, but when these questions are put before the court, they will be in a manner in which the court fully understands, and without innuendo. There will be no misunderstandings about them.

PROSECUTION: That is just exactly the law. Questions may be asked on cross-examination that may be clouded by some innuendo.

PRESIDENT: The court is not going to waste time on it.

PROSECUTION: I think it is improper for the court to interfere with the cross-examination which is being conducted by the prosecution.

PRESIDENT: That is sufficient for you, Mr. Denson. As far as the court's interferring, - the court has the right to do that at any time.

PROSECUTION: According to the law; not in any other way.

PRESIDENT: According to the court and for the benefit of the prosecution, you can state your questions in such a manner so that there can be no possibility of several interpretations. Proceed.

QUESTION BY MR. BIRKWITZ:

Q Will you answer my question?

A My fello countryman from Coblenz, Johann Jaergen, who was a witness here, -- he explained ho it was that I received

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MR. BERKOWITZ: Young friends.

ACCUSED RETZLAFF: I should like to tell the president they are trying to make a homo-sexual of me.

PRESIDENT: Let us be more explicit about that term, Mr. Berkowitz. I am referring to the term, "boy friends". The court do not want any double meaning. If you are going to ask him any questions, the court wants you to come right out with it. When this evidence comes before the court, the court desires it to be explicit.

MR. BERKOWITZ: I am asking him whether he gave food taken from some of the prisoners to his young male friends.

PRESIDENT: All right, put it that way. The only thing is, Mr. Berkowitz, the court will take the evidence which comes before it. There can be no double meaning. If you want to bring out certain facts, you will ask explicit questions.

MR. BERKOWITZ: I am laying the predicate for rebuttal witnesses.

PRESIDENT: All right, but make it explicit.

PROSECUTION: May it please the court, there is a proper function on re-directing any question that the court wishes to ask. So far as this double meaning of the term, "boy friends" is concerned, whatever connotation that the normal person may give it, whether or not they find a hidden meaning in that term, it is up to that person to find out that hidden meaning and to bring it out, when the present examination is concluded. Now there is absolutely nothing wrong with the term, "boy friends".

PRESIDENT: The court do not agree with that statement for one moment.

(Rotzleff-Cross)

PROSECUTION: I can sustain it by the law. I do not know whether the court agrees, but I am willing to show the court that the utmost latitude is supposed to be accorded to the counsel on cross-examination and if there is any ambiguity in its questions, it is up to the person finding that ambiguity to bring it out. That is the law, may it please the court.

PRESIDENT: That may be, but when these questions are put before the court, they will be in a manner in which the court fully understands, and without innuendo. There will be no misunderstandings about them.

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PRESIDENT: That is sufficient for you, Mr. Denson. As far as the court's interferring, - the court has the right to do that at any time.

PROSECUTION: According to the law; not in any other way.

PRESIDENT: According to the court and for the benefit of the prosecution, you can state your questions in such a manner so that there can be no possibility of several interpretations. Proceed.

QUESTION BY MR. BURKWITZ:

Q Will you answer my question?

A My fellow countryman from Coblenz, Johann Jaergen, who was a witness here, -- he explained how it was that I received

quite often food from my brother. Throughout the months, I divided that up with others. Of course, many of those were young people, poor men and also Jews. And if you, Mr. Prosecutor, Mr. Berkowitz, had been in the camp also as a poor man, I would have given you food, not because you were a handsome man but because you were a poor devil.

Q Now will you answer my question. Did you take food from some prisoners to give to some young male friends?

A My answer was 100 percent clear and I should like to ask the court to ask the prosecution not to repeat that same thing.

MR. BERKOWITZ: The question is not answered. He has evaded it and has given an answer on a slant that is not responsive to the question asked. I will ask the court to instruct the witness to respond to the question, instead of avoiding the question asked and giving extraneous matter.

PRESIDENT: Mr. Berkowitz, the court would like to call your attention to the Manual for the Trial of War Crimes, in particular, to page 104, second paragraph. Have you had a chance to find it?

MR. BERKOWITZ: Yes, sir.

PRESIDENT: The witness accused will not be compelled to answer any questions.

MR. BERKOWITZ: Sir, I am not asking that he be compelled.

PRESIDENT: He will not be sentenced for contempt for refusing to answer any question, but the court may draw an unfavorable impression from his refusal to answer.

MR. BERKOWITZ: I am not asking the court to compel the witness to answer. - I am merely making my request for

(Witness continuing to answer.)

A I gave young people from 14 years old up to people 70 years old, food.

Q That was food you took from other prisoners?

A That I got as a gift, as testified to by the witness Johann Jaerpen, as a gift, as he testified in the witness chair.

Q Will you please answer my question. Did you take food from some prisoners to give to others?

A You are alleging that I stole food and that I stole from comrades, and I won't take that.

MR. BERGOLTZ: I move the answer be stricken as not responsive to the question.

PRESIDENT: Motion is sustained. (To Witness). Just answer your questions as concisely as possible. Do not endeavor to argue at the present time. You will be given an opportunity to make an explanation later on, as I told you a moment ago.

(Witness continuing to answer.)

A If I received food from other comrades, which I could not eat, I would give it as a gift to other prisoners, and also young prisoners whom I was sorry for.

MR. BERGOLTZ: I move the answer be stricken as not responsive.

PRESIDENT: Mr. Bergoltz, the court feels the witness has answered your question.

MR. BERGOLTZ: I have asked the witness if he took food from other prisoners to give to others. I have no answer to that question. He has testified he gave food to other prisoners which he received, but he has not answered the question about food taken from other prisoners.

MR. KAY: If it pleases the court, the prosecutor fails

(Metzloff-Cross)

the sake of orderly procedure. The witness has submitted himself for questioning, and in order that the court may proceed in an orderly fashion, I request that the court ask the witness to respond to the questions in a direct manner, rather than tell us experiences and various occurences and take all day in getting an answer. Every question I have asked the witness has been capable of a "yes" or "no" answer. That has not been forthcoming. We have been receiving long tales and experiences. For the orderliness of this procedure, the witness who has submitted himself for cross-examination, may be instructed to answer the question.

PRESIDENT TO WITNESS: Now in giving your answers, make them as clear as possible and to the point. If you desire to make an explanation, that opportunity is given to you later on. The court will not compel you to answer any questions but I do want you to understand that if you refuse to answer any question, an inference may be made which might be unfavorable to you; but the court will not insist upon your answering any questions.

ACCUSED RETZLAFF: I am answering question to the best of my ability and knowledge. But I cannot take it that 30 things are put against me. For instance, that I have treated young fellows like pigs. Pigs. - I am not a pig myself.

PRESIDENT TO WITNESS: Just answer the questions concisely and to the point. You will be given an opportunity later on to make an explanation.

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(Witness continuing to answer.)

A I gave young people from 14 years old up to people 70 years old, food.

Q That was food you took from other prisoners?

A That I got as a gift, as testified to by the witness Johann Jaerpen, as a gift, as he testified in the witness chair.

Q Will you please answer my question. Did you take food from some prisoners to give to others?

A You are insinuating that I stole food and that I stole from comrades, and I won't take that.

MR. BERKOWITZ: I move the answer be stricken as not responsive to the question.

PRESIDENT: Motion is sustained. (To Witness). Just answer your questions as concisely as possible. Do not endeavor to argue at the present time. You will be given an opportunity to make an explanation later on, as I told you a moment ago.

(Witness continuing to answer.)

A If I received food from other comrades, which I could not eat, I would give it as a gift to other prisoners, and also young prisoners whom I was sorry for.

MR. BERKOWITZ: I move the answer be stricken as not responsive.

PRESIDENT: Mr. Berkowitz, the court feels the witness has answered your question.

MR. BERKOWITZ: I have asked the witness if he took food from other prisoners to give to others. I have no answer to that question. He has testified he gave food to other prisoners which he received, but he has not answered the question about food taken from other prisoners.

MR. OKAY: If it please the court, the prosecutor feels

(Metzloff-Cross)

to realize he doesn't get the answer he expects, but since the answer answers the question, that is all that is necessary.

PROSECUTION: May it please the court, the question was asked, did the witness take food from some prisoners and give it to others. He has never affirmed or denied that question which was asked of him. This court wants answers that are not ambiguous, the same as it wants questions that are not ambiguous. That question, as submitted, would be either denied or affirmed. The witness was asked whether he took food from some prisoners and gave it to others, and he has neither affirmed or denied that, and the answer he gave was in no way responsive to the question which was asked him.

PRESIDENT: Mr. Prosecutor, the court will give you an opportunity to rephrase your question. It is not absolutely clear when you say 'take' whether you mean that he stole or just what. You, Mr. Prosecutor, the court does want questions that are not ambiguous and the same thing applies to the answer, but when the question can be interpreted in several different ways, that naturally causes difficulty. The court will again caution the prosecutor to put his questions in such a way there cannot be any double meaning, nor ambiguity.

CROSS EXAMINATION BY MR. PERKOWITZ:

Q Mr. Netaleff, did you ever give to friends of yours, friends who were prisoners, food which you had taken from other prisoners, without the consent of the owners?

A Never.

Q Now Mr. Netaleff, did you ever beat any Poles in the block?

A I believe I boxed one Pole in the ear in the block, stop. --

ten. May I give you the reason for it?

Q You can give that later. Did you ever beat any Pole in the block, using a club? Or using a rubber hose or a metal bar?

A Never. There was a rubber hose in the block but never a club or an iron bar, and the block eldest was in charge of that.

Q Did you ever beat any prisoner at the block with a club, a rubber hose or a metal bar?

A Never.

Q Did you beat any prisoner at your work with a club, a rubber hose or a metal bar?

A Never, sir.

Q Now you testified that you had six previous convictions for theft, is that correct?

A I never said that.

Q What did you say your previous convictions were for?

A I said literally I had been before a court six times; but now that you ask me, I tell you I have been before a court six times, but there were several cases involved.

Q How many convictions?

A Six in all. In several cases.

Q How many of those were for pickpocketing?

A Not a one. Please explain to me what you mean by pickpocketing?

Q How many were theft?

A Most of them theft of food and clothing for the suffering next of kin of mine.

Q You said yesterday that in your first interview with Colonel Shaw, you lied to him, is that correct?

A Lied, insofar as that I did not tell him I was a

criminal prisoner.

Q And after you lied to him, he promised to help you, is that correct?

A No; nothing was said about any help.

Q He said he would get you released within eight days, is that correct?

A That is correct, yes. The translator Jonas was there and can be questioned.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct? Mr. McKay.

RE-DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Now, Retzlaff, going back to the interrogations by Colonel Shaw, you said that there were two interrogations, on direct examination, is that correct?

A Yes.

Q At the first interrogation, who was present in the room?

A An American guard, the translator Jonas, Colonel Shaw, and I, myself. And after he had looked straight in my eye for five minutes, while at attention, he said, "The man is not a murderer". I guess Mr. Jonas will remember that.

Q Now, Retzlaff, at the second interrogation with Colonel Shaw, who was present in the room?

A A Jewish officer, Landsberger, I, and the guard.

Q Who was the dolmetscher at that time?

A The Jewish American officer.

Q What was his rank?

A Unfortunately, I do not know it; I am not a soldier and didn't pay any attention.

Q At this second interrogation, who conducted the interrogation; by that, I mean, who asked the questions?

A Colonel Shaw. As he had been in the camp. He must have

had an interrogation with Landsberger, but of course, he always asked, "is that true?"

Q Were Colonel Shaw's questions directed to you or to Mr. Landsberger?

A Only to me.

Q Now at the time of this interrogation, do you recall whether anyone was present who took down the interrogation in writing?

A No; that is why I am so ashamed.

Q Now, at the time of the interrogation, did Landsberger ask you any questions?

A I am frank and open about it now, -- that he better hadn't done, because I probably would have made myself unhappy with that man who wants to get the noose around my neck and make a widow of my wife.

PRESIDENT: The court will take a recess for half an hour.

(Thereupon the court recessed at 1010 hours.)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Mr. Hall who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswald and Jakubith who are sick in the hospital, whose interests are being taken care of by their counsel, and Dr. Schmitz who is conferring with his counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

May it please the court, let the record show that the accused Mathai is also absent, and his interests are being taken care of by his counsel.

PRESIDENT: Continuation of redirect examination.

THEODOR RETZLAFF, an accused, resumed the stand in his own behalf and testified further through an interpreter as follows:

REDIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (Continued):

Q Mr. Retzlaff, you mentioned this morning that you wanted to look at book 1 of the camp rolls for the name of a prisoner whose life you saved.

A Yes, it is either No. 14507 or 4708. It is a Czech. He comes from Pilsen, near Prague. This is it here (indicated).

Q Will you read that name?

A 4507, Czech, Vecsana, Josef, date of birth, 20th of September, '98. He came to Flossenburg on February 6, 1944.

Q The prosecution asked you about your relation with young prisoners in block 6. Will you briefly describe the nature of your association with the young male prisoners in your block?

A I had the same connections with these young people in block 6 as my poor deceased mother had with orphans on Christmas eve. I had pity with every small person there and I helped them as much as I could. It hurts my heart when I see hungry people.

Q Will you explain to the court where you would obtain the surplus food that you would give these boys?

A As my witness, my defense witness, Johann Jürgen from Coblenz on the Rhine River said, I often got food from him daily for almost one year. And that sometimes it was 2 or 3 liters. And the same thing applies to Jebsicht. He comes from Coblenz also. His address is Antineus, No. 10. He was born on the 4th of April, 1902. He also supported me very often with food and when a package from my brother arrived which had nice things in it, I couldn't eat it all myself of course and I didn't want to eat it all, and for that reason I gave away what I didn't want.

Q You mentioned this morning that you had boxed two Poles on the ear in the block. Will you explain that incident to the court and why it happened?

A I had gotten a package from my brother again, as I often did. When I was on my way back to the block from the clerk's office where the packages were given out, I was with this Russian boy who has been mentioned before, Baranizke. Two Poles came out from behind a block in the darkness. They tore my package out of the Russian boy's hands and asked him in Polish whether that was his package. They didn't recognize me as a German because I was wearing

(Retzlaff - Redirect)

a Russian uniform and a fur cap. I ran after the boys and I caught up to them in my block and if it is necessary I can give you the names of witnesses who know that exactly. It is natural that I didn't say to them, thank you and let them keep the package; I gave them a few on the car. If I had reported them there would be two men more in the camp who had died. They would have been hanged because any attack with intent to rob was punished by death.

Q When you were interrogated by Colonel Shaw, did he ever ask you about your status in camp?

A He asked me whether I had been a capo, because Landsberger's interrogation maintained I had been a capo and an SS man and when he came here he said I wasn't any capo.

Q Now is there anything else about your recross examination that you would like to explain to the court?

A I would like to give the court the names of the following witnesses in case they are still in doubt of my innocence.

PRESIDENT: Proceed.

ACCUSED RETZLAFF: Name Staas, lives in Saint Wendel, born April 23, 1913, the street amStoll, 8; Hans Winter, lives in Wangen in Allgaeu, born August 11, 1924. This area here is Wurttemberg. August Wagner, lives in Hannover, his prisoner's number was 10391, born October 7, 1918. This poor boy is a gypsy. He doesn't have any parents anymore, but I provided him with a stepfather because an Austrian had wanted to adopt me. I said you help this young person because I can get along on my own legs in this life.

PRESIDENT: Now, Retzlaff, the court suggests that you go over the situation with your defense counsel as to any testimony these witnesses might possibly be able to give in your behalf.

(Retzlaff - Statement)

ACCUSED RETZLAFF: Mr. President, I must unfortunately tell you that I have already given these names to my defense counsel and also to Mr. Kirschbaum. They promised me that they would notify these witnesses for me by telegraph. They thought that I was dumb.

PRESIDENT: The court is satisfied that your defense counsel will take every effort to have any witnesses here in your defense that they consider essential and necessary.

ACCUSED RETZLAFF: It isn't the fault of my defense counsel. He can't drive up there himself. I am convinced that my defense counsel is doing a one hundred percent job in trying to protect my rights and I have a great deal of respect for Mr. McKay.

PRESIDENT: Proceed, Mr. McKay.

MR. MC KAY: Is there anything further you want to explain Mr. Retzlaff?

ACCUSED RETZLAFF: I would like to explain the following facts to the court.

PRESIDENT: Proceed.

ACCUSED RETZLAFF: Book No. 13 of the prosecution exhibit proves under this number, 3361J that a second Hershburg was delivered in Flossenburg on November 9, 1944. This man was born in Dereske on October 1, 1920 and he was transferred to Buchenwald on November 26, 1944. That is the only real Hershburg who ever lived in Flossenburg. The other Hershburg who was mentioned here in connection with me yesterday writes his name with a "e" which is said "Herschberg", pronounced differently. I could not have beaten this named man to death[illegible]ber—I didn't run after him.

I would like to present to you the black points of the testimony which the prosecution witnesses have put against me here.

(Retzlaff - Statement)

Landsberger said that the two prisoners who were supposed to have been beaten to death by me were called Josef Hershburg and Fisher Goldberg. He said that he came with them to Flossenburg in 1944. You can tell by looking at the books that one was never in the books at all. There isn't any Josef Hershburg. The books also prove the following: that at this time when I was supposed to have beaten these two to death, that was January or February, and at this time Fisher Goldberg was never in Flossenburg, and on a Sunday, the 25th of February, he came into the camp for the first time and died on Tuesday, March 20th. That is 7 weeks that the good man who wants to bring me to the gallows maintained. I don't know what to think about that. He maintains that these two prisoners were beaten to death by me in Shaller Hall. If a prisoner would be wounded in Scherlech Shaller Hall because of an accident at work then the accused here, Alois Schubert, would immediately drive them to the hospital with his own car and if these people had really been beaten by me like that, then Alois Schubert would have also taken them to the hospital by auto and if Landsberger, on this particular evening, had carried these two people into the hospital who were supposed to have been beaten by me like he says I did, then the people would have immediately been received in the hospital.

PRESIDENT: Is the name "Landsberg" or "Landsberger"?

ACCUSED RETZLAFF: Landsberger.

He maintains that he carried them to block 5. If I had really beaten these two men then it is practically impossible I believe that they would have died at the same time in block 5; and I maintain the following here: that the deceased, Fisher Goldberg, since he didn't get to the camp until 3 weeks before the evacuation

started, I am convinced that the man was never put to work in the factory there at ~~Schallhorn~~ Schaller Hall. This poor devil was certainly lying in the quarantine block and died there. I never knew the man. I never did anything to him. I couldn't do anything to him. It is incomprehensible to me that as a man with a plan as Landeberger is pursuing here and this little Kiesmachowski—I can only feel sorry for him. Because he who took bread and beer out of my locker 3 or 4 times and I call him a rogue for that reason, if he comes here and maintains that I beat him once, then almighty God should forgive him. I forgive him too. I really don't have anything else to say to the court.

I leave it up to you, you are educated, cultured people and I believe that you can see through these false arguments here and I beg you to condemn me to death if there is one figment of guilt proven against me. I am not afraid of death anymore. I will be glad to have my peace. I am fighting for my wife and the rights which were taken from us. And I beg you all, with all my heart for forgiveness that I was nervous here. The long years in the concentration camp, the long years of suffering are responsible for that. That wasn't any disdain of your authority. That was the springing blood that is in my nerves, that is the thought of our rights which have been raped and you want to scream about it. I lost my wife in ~~a concentration in~~ a concentration camp, I lost my brother the same way. I lost my mother very early. Just the same as I wish the dear members of my family eternal peace, but that I swear I never beat anyone to death or mistreated anyone. That is all I have to say.

PRESIDENT: Now, Retzlaff, when you took the stand in your own behalf you were naturally subject to cross examination, and at a later period, recross examination. Now during the course of your

recross examination, the court directs that you avoid any personalities. At the same time, the court directs that you refrain from asking the prosecutor or the assistant prosecutor any questions. And if a question is not clear to you, you have a perfect right to ask the court for an explanation, or the court will entertain a statement on your part that you do not completely understand the question. Just as the court told you previously, the court will give you an opportunity to make an explanation at a later period if anything should come up during the course of your recross examination; that explanation could be made through your defense attorney or else the court will give you an opportunity to make such an explanation. Are the statements of the court entirely clear to you Retzlaff?

ACCUSED RETZLAFF: Completely, Mr. President.

PRESIDENT: There is one other point the court wants to make clear to you at this time--a matter that has previously been explained to you that you have a right to refuse to answer a certain question and at the same time the court might make an inference based upon your refusal to answer which might be unfavorable to you, is that clear to you?

ACCUSED RETZLAFF: Yes.

PRESIDENT: Recross examination, proceed.

MR. BURKOWITZ: No further questions.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Do you know why your wife was put to death in the gas chamber in Auschwitz?

(Retzlaff - Court)

MR. BERKOWITZ: If it please the court, the question is objected to as being immaterial to the issues of this case.

PRESIDENT: The objection is overruled.

A After I escaped from Auschwitz and came back to Coblenz to my parents-in-law, my mother-in-law told me the following: My wife had often been summoned to the police and they had asked her to get a divorce from me, but she didn't want to do it. She said that she wouldn't get a better man, and as they constantly put pressure on her and made approaches to her, she said, when the official said to her that I was a criminal, you call my husband a criminal, but you have the face of a criminal, and that is all I know about the death of my wife. When I was in Coblenz I looked for the grave of my wife, because I thought she died a natural death but she was gassed to death in Auschwitz.

Q Were you told she was gassed to death because she refused to get a divorce from you?

A The telegram didn't go into that. I read the telegram. At that time my wife was 21 years old. The telegram said if you send us 70 marks and 50 pfennigs, we will send you her ashes; she died from circulation trouble, and every prisoner knows exactly what that means. In other words, gassed to death.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. MC KAY: Nothing further, sir.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q When were you married the second time?

A 14th of July, last year, during the French National holiday, after I had explained to my wife, my entire past.

MR. SEMKOWITZ: No further questions.

PRESIDENT: Any further questions, defense?

MR. MC KAY: Nothing further.

PRESIDENT: The court understands that the defense is finished with the witness at this time. The witness will be excused, and will resume his seat in the dock.

(Whereupon the witness was excused and resumed his place in the dock.)

MR. MC KAY: If it please the court, the next witness is being called on behalf of the accused 26, 8 and 30. This witness speaks only Polish and it will be necessary to have the services of a Polish interpreter. Will you call Adam Duda.

ADAM DUDA, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

PRESIDENT: Proceed, Mr. McKay.

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you state your name for the court?

A Duda, Adam.

Q Will you spell your last name?

A D-u-d-a.

Q Were you ever a prisoner in Flossenburg Concentration Camp?

A Yes.

Q When did you arrive at Flossenburg as a prisoner?

A I came to Flossenburg the first of April, 1943.

Q How long did you remain as a prisoner at Flossenburg?

Fa 514-10/11-lef-10

A Until the evacuation.

Q Do you recall what month and year that was?

A Until the 20th of April, 1945.

Q What was the last detail that you were employed on while you were a prisoner there?

A In the kitchen.

Q What position did you have in the kitchen?

A I was a cook.

Q When did you go to the kitchen to work as a cook?

A In December of '44.

Q Did you ever come in contact with a man in the kitchen by the name of Matzke?

A Yes.

Q Do you recall when Matzke came to the kitchen?

A I can't remember exactly. It was just before Christmas.

Q Of what year?

A '44.

Q What duties did you observe Matzke perform in the kitchen?

A He worked there as a butcher. He divided up the portions for the prisoners. Besides that he worked there at a machine.

Q Did Matzke have any position of any kind of authority while he was in the kitchen?

A He was the butcher who divided up the individual portions and besides that task, he didn't have any other position.

Q Will you explain for the court the physical condition of Mr. Matzke while you knew him in the kitchen?

A I remember that he was always sick and that he was lame in one leg.

(Dada - Direct)

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Q Do you know what reputation Matzke had among the prisoners in the kitchen with regard to his treatment of fellow prisoners?

A He was a friend. He was normal, just like all other cooks.

Q Will you explain to the court if anything you ever heard about Matzke was unfavorable?

A No, it wasn't.

Q Do you think you could recognize Mr. Matzke if you saw him again?

A Yes.

Q Will you look over the prisoners who are seated behind me and see if you can find the man you knew of as Matzke in Flossenburg?

A No. 26.

MR. MC KAY: Let the record show that the witness has identified the accused wearing No. 26 as Matzke.

Q Do you know how long Mr. Matzke remained as a cook in the kitchen?

A I can't remember the exact date, but I do know exactly that he didn't stay in the kitchen until the end.

Q Do you know the reason for his leaving the kitchen?

A Yes.

Q What was the reason?

A He was always sickly and didn't always come to work.

Q While you were a cook in Flossenburg, what block did you live in?

A I lived in block 12.

Q Where was block 12 located with relation to the kitchen?

A Block 12 was located behind the kitchen.

(Duda - Direct)

Q I now call your attention to a plan which hangs on the wall to the right side of the court facing the court which is prosecution exhibit No. 5, and is the plan of the camp of Flossenburg. I ask you to take this pointer and point out the kitchen where you worked during the time you were a cook in Flossenburg.

A (Indicated).

MR. MC KAY: Let the record show that the witness has indicated a block with the No. 5 in black and the word "kitchen" in red letters on prosecution exhibit No. 5 as being the kitchen where he worked.

Q Will you also point out block 12 in which you lived during the time you were a cook in the kitchen?

A (Indicated) That is block 12.

MR. MC KAY: Let the record show that the witness has indicated a block above block 5 with the number 12 in red letters on prosecution exhibit No. 5 as being the block where he lived while he was in Flossenburg.

Q During the time that you lived in block 12, who was your blockeldest?

A At that time the blockeldest was Buttner or Bittner, I can't remember the exact name.

Q Do you think you could recognize the man if you saw him?

A Yes.

Q Will you look over the prisoners seated behind me and see if you can recognize the man you knew of as your blockeldest of block 12?

A No. 6.

MR. MC KAY: Let the record show that the witness has identified the accused wearing No. 6 as blockeldest of block 12

while he was living there.

Q Is this the man you knew of as Buttner or Bittner?

A Yes.

Q Do you recall when you first moved into block 12 to live?

A I came into block 12 directly after the block had been erected.

Q Can you recall the month and year that that occurred?

A That was shortly after Christmas, 1944. That was at the beginning of January, 1945.

Q What personnel lived in block 12 during the time you lived there?

A The kitchen personnel and the potato peelers lived in this block.

Q Do you recall the condition of block 12 as far as its construction in relation to the other blocks in the camp?

A Yes.

Q Will you explain the condition of that block in relation to the other blocks in the camp at the time you lived there?

A Block 12 was an extra block for the kitchen personnel. Each prisoner of this block had a bed for himself.

Q Will you explain for the court the conditions that existed in block 12 with regard to cleanliness and sanitation of the block during the time that you lived there?

A The cooks were allowed to change their clothes twice a week.

Q Will you explain to the court the facilities that were available to you as a cook as far as bathing yourself during the time that you lived in block 12?

(Duda - Direct)

A The cooks could go to the bath and bathe as often as they wished.

Q Will you explain to the court the condition in the block with regard to cleanliness and order in the block itself during the time that you lived there?

A The cooks in the block didn't have to make their own beds and bedside cleanliness was not our responsibility. We had a stove and it was warm in the block.

Q What about the cleanliness of the aisles and the rooms where you slept, the latrines and the like in the block during the time you were there?

A The latrine and the washroom was always clean.

Q Whose responsibility was it to see that the block including the washroom, latrine and dormitory were kept clean during the time that you lived there?

A The blockeldest.

Q How many prisoners were living in the block when you were there?

A I can not tell you about the whole personnel strength in the entire block. I can only tell you about that part of the block where I lived.

Q Describe that for the court.

A 40 men, perhaps a few more.

Q Will you explain to the court just how many men who were in your part of the block would sleep in a bed?

A In our department, each prisoner had a bed for himself.

Q Did that condition exist during the entire time that you lived in block 12?

A Yes.

Q Will you explain for the court what if any delousing was done in block 12 during the time that you lived there?

A Once, all the cooks had to be delousad when we went to the bathroom. There we were washed, disinfected and when we came back to the block, the beds had already been disinfected and cleaned up with a liquid.

Q Where was the bathroom where this delousing took place?

A That was in another block on the other side—away from the kitchen.

Q Mr. Duda, will you explain to the court the situation with regard to your having to fall out for roll call from block 12, during the time you lived there?

A We cooks didn't have any roll call. We would take care of our roll call in the kitchen.

Q Do you know whether the potato peelers who lived in your block had any roll call?

A I don't know that exactly.

Q I would like to have you explain for the court just how Mr. Buttner, your blockeldest, treated you and the other prisoners during the time that you lived in block 12.

A He lived with us as a normal human being, like a comrade.

Q Now Mr. Duda, what would have been the situation in block 12 among the personnel of the cooks, had Mr. Buttner been a man who had beaten a prisoner so severely that he would have died as a result of it?

A I believe that the other cooks would have murdered him for that.

Q Will you explain to the court what, if anything, you ever

heard with regard to Mr. Buttner's mistreatment of prisoners who lived in his block?

A I didn't hear anything.

Q Will you explain to the court what the situation was with regard to distribution of food in block 12 among the personnel who lived there?

A We cooks got our food in the kitchen.

Q Do you know whether there was any distribution of food made in the block to the potato peelers?

A As I recall it, the evening meal was distributed to the potato peelers in the block.

Q Will you explain to the court just what type of personnel worked in the kitchen with you when you lived in block 12?

A Various ministers worked with us in the kitchen; a French general; a Jugoslavian colonel; a French professor of mathematics; strong, healthy people were employed in the kitchen. Also various Germans, Russians and Poles.

Q What was the nature of Mr. Buttner's association with these prisoners who worked in the kitchen during the time that they were in block 12 itself?

A He acted in a normal way, as a fellow prisoner--comrade.

Q During the time that Mr. Buttner was blockeldest in block 12, will you please describe what his physical condition was the best you knew it?

A Once in a while he had to stay in bed because of a cold or grip. He was often sick.

Q How long did you continue to remain in block 12?

A Up until the evacuation.

(Duda - Direct)

Q Did Mr. Buttner remain all of that time as blockeldest of block 12?

A Yes.

Q Going back to Mr. Matzke for a moment, can you recall the month and year that he left the kitchen?

A That was January, '45. He didn't stay in the kitchen until the evacuation. He was gone for a lapse of time before the evacuation.

MR. MC KAY: Mr. Reporter, I hand you a diagram which I would like to have you mark as defense exhibit 19 for identification.

(The document referred to was marked Defense Exhibit No. 19 for identification.)

PRESIDENT: The court will take a short recess in place.

(Whereupon the court was closed at 1155 hours.)

(Whereupon the court was opened at 1200 hours.)

PRESIDENT: Court will come to order.

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY (Continued):

Q Mr. Dada, I hand you a piece of paper which has been marked for identification as defense exhibit No. 19. Now I ask you what that diagram represents?

A That is a map of the block.

Q What block?

A Block 12.

Q I hand you a fountain pen, and I ask you to mark with the letter "K" the area which was used for the living quarters of the kitchen personnel during the time that you lived in block 12.

A (Indicated).

Q Now I would like to have you mark the area which was used in block 12 for the living quarters of the potato peelers with the letter "P".

A (Indicated).

Q I notice that in the area which you have marked with the letter "K" there are a lot of small squares which are in rows; what do these represent?

A Those are beds.

Q Are these the beds which have been mentioned by you, as those in which only one prisoner was sleeping in at a time?

A Yes.

Q During the time that you lived in block 12, did you ever have occasion to see Mr. Buttner take any disciplinary actions against anyone?

A I saw it several times. People from other blocks were not allowed to come into our blocks and the cooks stayed in the kitchen. Others weren't allowed to come in because of danger of them robbing us. I remember one day a great mass of prisoners came. They wanted to get into the block; then I heard my blockeldest Buttner shout. He ordered them to get out because it was forbidden for them to be there and if an SS man would come and see it, then he would cause them trouble.

PRESIDENT: The court will adjourn until 1330.

(thereupon the court adjourned at 1200 hours.)

Camp Dachau, Germany
11 October 1946

AFTERNOON SESSION

(Thereupon the court reconvened at 1340 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter, who are absent on business for the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall, and Doctor Wacker, who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, and Lipinski, who are sick in the hospital and whose interests are being taken care of by their respective counsel, and Roller, who is conferring with counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case will they please leave the court room?

PRESIDENT: Continuation of direct examination, Mr. McKay.

ADAM DUDA, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. MC KAY:

Q May it please the court, Mr. Duda, before the noon recess you had described to the court an incident where you saw a number of prisoners trying to get into block 12. Now I want you to tell the court what if any physical action you saw on the part of Buttner against the prisoners who were trying to get into the block at that time?

A He only shouted and invited them to leave the block.

Q Did you ever see any other incidents of that nature?

A That often took place with us.

Q Did you ever see Buttner take any physical action against the prisoners during any of those incidents?

A No, I never saw that.

Q Mr. Duda, did you ever have occasion to be present in the block when Mr. Buttner was carrying on a conversation with the personnel who lived in the kitchen, or rather, who worked in the kitchen and lived in Block 12?

A Yes, of course, I was often there. The Gypsies made music, prisoners were there, and the block eldest was there also.

Q What languages did Mr. Buttner use during those conversations?

A German and Polish he spoke

MR. BERKOWITZ: If it please the court, may I have a few minutes?

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1355 hours.)

RESIDENT: The court will come to order.

MR. MC KAY: I have completed my examination on behalf of accused #26 and #8. Doctor Engelhorn will examine the witness on behalf of accused #50.

QUESTIONS BY DOCTOR ENGELHORN:

Q I am asking my questions in the name of the accused, Wodak, #50. During your sojourn in Flossenburg did you know the man whose name is Wodak?

A Yes, I knew him.

Q Would you be able to identify him today?

Q Did you ever see any other incidents of that nature?

A That often took place with us.

Q Did you ever see Buttner take any physical action against the prisoners during any of those incidents?

A No, I never saw that.

Q Mr. Duda, did you ever have occasion to be present in the block when Mr. Buttner was carrying on a conversation with the personnel who lived in the kitchen, or rather, who worked in the kitchen and lived in Block 12?

A Yes, of course, I was often there. The Gypsies made music, prisoners were there, and the block eldest was there also.

Q What languages did Mr. Buttner use during those conversations?

A German and Polish he spoke

MR. BERKOWITZ: If it please the court, may I have a few minutes?

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1355 hours.)

RESIDENT: The court will come to order.

MR. MC KAY: I have completed my examination on behalf of accused #26 and #8. Doctor Engelhorn will examine the witness on behalf of accused #50.

QUESTIONS BY DOCTOR ENGELHORN:

Q I am asking my questions in the name of the accused, Wodak, #50. During your sojourn in Flossenburg did you know the man whose name is Wodak?

A Yes, I knew him.

Q Would you be able to identify him today?

A Yes.

Q See if he is sitting among the accused in back of me.

A Number 50.

DOCTOR ENGELHORN: Let the record show that the witness identified the accused, #50, as Wodak.

QUESTIONS BY DOCTOR ENGELHORN:

Q Mr. Dudd, on what occasion did you learn to know Mr. Wodak?

A I learned to know Wodak when I came on a big transport from Majdanek. That was the 1st of April, 1944 — '43, not '44.

Q What position did Wodak hold then?

A At that time Wodak was block leader of block 23.

Q What kind of people were living in block 23?

A There were Poles there regarded as political prisoners.

Q Did you yourself live in block 23?

A Yes.

Q When did you start living in this block and when did you stop living there?

A I started living in this block the 2nd of April, 1943, and I stayed in this block two months.

Q What did you do in this block?

A I was a prisoner just like everybody else.

Q At that time did you have any work to do?

A No.

Q Then please tell the court what kind of experiences you had with Wodak.

A The day after we arrived in the block Wodak came to us and asked us whether there were any athletes among us. Upon this invitation I reported myself and my friend, Ssewczyk, the

first name is Czeslaw.

Q What happened then after you reported?

A After we reported he asked in what department we were athletes, what was our specialty, and we answered, "We are wrestlers." After that Wodak asked us whether we would put on a fight before him. It just took a second for the prisoners to spread out the mattresses on the floor, the mattresses from the beds, and we began to fight on top of these mattresses. This fight pleased him very much just as it pleased everyone else. After the fight was over Wodak brought us some soup and gave us each five cigarettes, and after that every Sunday we put on a fight in the bath room. Wodak sought out wrestlers from all over the camp and brought them to us and we put on fights with them.

Q. Did you have any other opportunity of carrying on your athletic prowess?

A During the whole time I was in Flossenburg I put on fights.

Q Please explain to the court how Wodak treated the prisoners.

A I must say that according to what I saw, Wodak behaved very well among the prisoners. He would come to the block very often and we would discuss German athletes and sports.

Q Please tell the court how Wodak treated those prisoners who were not athletes.

A From what I saw I couldn't say that he treated the prisoners badly. I was employed in the quarry. I was working and I can't say what transpired in the quarry.

Q Please explain to the court how he treated the German

(Duda-direct)

(Duda-direct)

prisoners and how he treated the foreign prisoners?

A As far as my knowledge goes, he didn't make any discrimination. He treated them all alike.

Q Tell the court whether any illness broke out in block 23 as long as you were there?

A Our transport which came to Flossenburg was completely saturated with Flek Typhus.

Q What kind of measures did they take to fight this Flek Typhus?

A We were separated from the rest of the camp by barbed wire.

Q Did you stay in the same block then or did you get transferred to a different block?

A A thousand prisoners came in the transport and of the thousand who came over three hundred died and around five hundred sixty men went off in a transport to Gross Rosen. The remainder stayed in the hospital, and at the end therewere only about twenty of these people remaining.

Q Where were you while this Flek Typhus epidemic was raging?

A I was in the same block.

Q Was this block quarantined from the rest of the blocks?

A Yes, there were two blocks which were separated from the other blocks, namely, block 23 and block 22.

Q How many people were quartered in these two blocks, 22 and 23?

A They split the transport into two halves. One half came into one block and the other half in the other.

Q All together how many were there?

A One thousand people.

Q Who had the supervision of these blocks?

A What do you mean by supervision? Do you mean super-

vision of the SS men or the block eldest supervision?

Q The chief supervision of the SS people.

A Wodak was the chief supervisor.

Q Please tell the court how Wodak carried out his duties in this block?

A Early in the morning he would come and hold roll call then he would go away again because he didn't want to get infected himself.

Q How did he behave otherwise at this roll call?

A The block eldest had us fall in by 5's. He came and counted us off.

Q Did you fall sick yourself, or did they suspect that you had Flek Typhus?

A I was sick myself but during this time when we were in quarantine I ate a meat pie and was poisoned by the meat. I had got this meat pie in my ration.

Q What form did the illness take?

A I was weak, I couldn't walk, I couldn't eat, and sometimes I would fall unconscious. That lasted about ten days.

Q Did you get any special diet?

A I didn't get any special diet, but as soon as Wodak found out I was sick he sent doctors to me.

Q Do you know the name of the doctor who treated you?

A That was the SS man. Later on he gave me some injections. The fluid had been secured by Wodak from outside the camp in the city.

Q Do you mean to say by that that Wodak on his own initiative got medicines for you?

(Dudo direct)

A Yes.

Q When you were sick did you get any additional rations, any additional food?

A I got the same rations as other prisoners but every day before breakfast Wodak would come to me and bring me a bowl of warm broth to eat.

Q Do you know where Wodak got this broth?

A He brought this soup from the SS kitchen of the SS officers' club.

Q Do you know how the other prisoners talked about Wodak and what kind of reputation he had in the camp?

A Sometimes prisoners would come to Flossenburg from Pottenstein. I was curious about what they thought of Wodak so I would ask these people about him.

Q And what did these prisoners say about Wodak?

A They spoke very well about Wodak. They said he had "scrounged" up food for the prisoners and when the prisoners went to work he let them work among the farmers and get food for themselves this way.

DOCTOR EGELHOFF: I have no more questions.

PRESIDENT: Has the defense finished with direct examination?

MR. MC KAY: That is correct, sir.

PRESIDENT: Cross-examination.

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Can you give us the names of any prisoners you talked to who had been in Pottenstein with Wodak?

(Dudo-cross-examination)

A No, I can't give you any names. Whenever a work detail would come into the camp we would ask them about our friends or whatever interested us. I can't give you any names.

Q Wodak was a friend of yours, was he not?

A He couldn't be my friend but he had a good attitude toward me.

Q Do you know any other prisoners for whom he got broth and to whom he gave broth?

A No, but I know other people whom Wodak helped.

Q Those other people were athletes, were they not?

A Yes.

Q During what period of time was Wodak block leader of Block 22 and Block 23?

A Wodak was block leader of these blocks from the time we arrived until the remainder went away.

Q What was the month and the year that the remainder went away?

A That was June, 1943. Yes, that could have been around the beginning of June, 1943.

Q So that he was block leader between April, 1943, and June, 1943, is that correct?

A Yes, that's right, but I can't give you the exact date to the day.

Q Now, Mr. Duda, will you please tell the court where these prisoners who left block 22 and block 23 went?

A As I already testified, one part went off to another camp, Gross Rosen, one part died, one part went to the hospital. The healthy ones remained behind and afterward they were distributed around the camp.

(Duda-cross examination)

Q Approximately how many died during the time Wodak was block leader?

A About three hundred. I can't give you an exact number down to the individual man, I can only say approximately three hundred.

Q Of that number, Mr. Dudá, how many were of your own country?

A They were all my fellow countrymen because that was a transport which came from Poland. There could have been about five to ten Gypsies among them.

Q And at the time approximately three hundred of your countrymen were dying in that block, how many times did Wodak send the doctor down there?

A Medics lived on the other side there. They came in and gave our people pastils but some of the prisoners didn't want to take these pastils because they were afraid they wouldn't recover.

Q Gave them what?

A Pastils.

Q Well do you know of any instances of Wodak's sending doctors down to the block except the time he sent one down to look after you?

A After a few days a camp physician came, a captain in the SS, and asked about the sick people.

Q How many times did that captain come back to the block?

A He came several times a week.

Q And did they receive any other treatment except the pills they were given?

(Dudá-cross examination)

A We didn't get any other medicine.

Q How many people lived in block 12 at the time you lived there?

A It could have been forty or forty-five men in the wing where I was living, but I don't know how many people lived in the other wing.

Q Did you live in the same wing with Matuka?

A Yes.

Q You don't know how many people lived in the other wing, is that correct?

A No, I don't know because I didn't have any interest in it, but a lot more people lived there than with us.

Q Did you ever visit in that other wing?

A I was there once in a while but I didn't stay there long. I would go out again. In the evening when I came home from work I would change my clothes and go over with my friend.

Q That wing was under the same roof as your wing, was it not?

A Yes, that was just across from my wing.

Q You had to enter the same door from the outside, did you not, in order to get into your wing and go into the other wing?

A There was only one entrance, that is right, but after you got through that entrance there was a corridor about the size of a room and on the left and right there were individual doors leading off to the individual wings.

Q How many beds were in these wings?

A There were more beds in the other wing than we had because there was a bigger work detail than we had, but I can't

give you the exact number.

Q Were there many more men or not?

A I assume that there were not so very many more men living there because the space they lived in had approximately the same space as ours.

Q Did you ever hear of crowding more men into a small space?

A Yes, you could squeeze a lot of people into a small space if you push the beds together and place the beds in three decks, one on top of each other.

Q Were there as many as one hundred fifty prisoners living in this other wing?

A I can't tell you. I don't know how many beds there were there, and therefore I don't know how many people lived there.

Q I'm not asking you to determine how many people lived there by the number of beds. I'm asking you simply if you can give us to your best judgment the number of people there without regard to the number of beds.

A There were more people there than in our wing but I can't give you the number.

Q You can't tell the court in your judgment whether there were twice as many, three times as many, or less, is that correct?

MR. MC KAY: The question is objected to for the reason that it is repetitious and argumentative.

PRESIDENT: Anything else, Mr. Prosecutor?

PROSECUTION: Nothing.

(Dude cross examination)

PRESIDENT: The objection of the defense counsel, Mr. McKay, is overruled.

THE WITNESS: I shouldanswer this question? I never had any business in the other wing. I never counted people off and for that reason I can't give you a number. I only know there were more people and it is possible there were twice as many.

QUESTIONS BY THE PROSECUTION:

Q The other people had to stand roll call, did they not?

A I don't know how the roll calls were held, whether the block leader held the roll call inside the block or whether the people had to go to the square. I don't know because there were always people who had to work in the block and I had to go to work.

Q Well, you were in this block from January, 1945 up until the end, is that right?

A Yes.

Q And you never saw them hold a roll call in that block?

A You can't compare block 12 with the other blocks in the camp. It was regarded as an extra block in the camp. We had such a hard job to do that when we got back at night from work we would change our clothes, eat supper, then go to our friends, and I don't know how the roll call was held there.

Q Just answer my question. Did you ever see a roll call held in block 12?

A I can't remember that; and if roll call was held in the block I only know that in the kitchen we would be counted off by an SS man and if there was a prisoner there in the block in another shift and who was sleeping, they wouldn't wake him for the roll call.

(Dudo-cross examination)

Q Did all the people who lived in block 12 work in the kitchen?

A The cooks worked in the kitchen and the potato peelers worked under the kitchen.

Q Were all the people who lived in block 12 connected with the operation of the kitchen?

A Yes.

Q Who assisted the block eldest in maintaining order in the block?

A We had a few Russians who helped him with the work, because they awoke us about three o'clock and we had to go off to work and we didn't have time to do any of this work. These Russians helped him make the beds, sweep, and maintain cleanliness.

Q Did you ever see anyone beaten with a hose?

A I didn't. I never saw that.

Q Did you ever hear that Buttner beat anyone with a rubber hose?

A I never heard that.

Q Was a rubber hose kept in the office of the block eldest?

A I don't know. In the place where the block eldest slept he had a small private chamber for himself. What he kept in the cupboard there I don't know — whether it was bread or a rubber hose.

Q Did you ever hear of anyone being beaten to death in Flossenburg while you were there?

A Yes, I heard that.

Q Was anybody beaten to death in the year 1943?

(Dudek-cross examination)

A Yes..

Q Was anybody beaten to death in block 12?

A I never heard that.

Q Did you ever see anyone beaten in block 12?

A No.

Q Did you ever hear of anyone being beaten to death in block 22 or block 23?

A Not to death, they died by themselves.

Q Did you ever see anyone beaten in Flossenburg?

A Yes, I saw that. I was beaten myself.

Q Did you ever see anyone beaten by Matzke?

A I never saw that.

Q Did you ever hear of anyone being beaten by Matzke?

A Matzke was scarcely able to stand on his own legs.

Q Will you answer my question?

THE WITNESS: What question?

PROSECUTION: Read it to him, please.

(Whereupon the reporter read the question.)

THE WITNESS: No I didn't hear that.

QUESTIONS BY THE PROSECUTION (CONTINUED):

Q Did you hear of anyone being beaten by Buttner?

MR. MC KAY: That is objected to as being repetitious.

PROSECUTION: I don't recall, may it please the court, whether he has answered that question or not. If he has I'd like to have the record read back and see what the answer is.

PRESIDENT: The objection of defense counsel, Mr. McKay, is overruled.

(Dudd/cross examination)

PROSECUTION: Will you read the question, please?

(Whereupon the reporter read the question, as follows:

"Q Did you hear of anyone being beaten by Buttner?")

THE WITNESS: No.

QUESTIONS BY THE PROSECUTION (Continued):

Q How many athletes lived in block 12?

A I was the only wrestler there. There were two Germans who were hand ball players and later on two Poles.

Q In other words, there were five athletes who lived in block 12, is that correct?

A Anybody who lived there could carry on sport activities if he wished. When I talk about sports I am talking about the good athletes. They were the two Germans, the Poles, and I. There were probably about five people.

Q How much did you weigh when you came to Flossenburg?

A I could have weighed around seventy kilos. One kilo is two pounds.

Q How much did you weigh when you left Flossenburg?

A I weighed less. It could have been around sixty-eight kilos.

PROSECUTION: No further questions.

PRESIDENT: Defense?

MR. MC KAY: No further questions.

PRESIDENT: Doctor Engelhorn.

DOCTOR ENGELHORN: Mr. President, I ask you now for a short intermission. I want to ask a question of the accused.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1455 hours.)

(Dude-cross examination)

Ta-5-6-11-10
ehw-1
Floss

Camp Dachau, Germany
11 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1540 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Lt. Colonel Wilson and Dr. Hacker, who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Oswalt, Olschowski, Lipinski and Jakubith, who are sick in the hospital. The interests of the named accused are being taken care of by their counsel. The accused Roller is also absent for the reason he is conferring with counsel.

The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Re-direct, Dr. Engelhorn.

ADAM DUDA, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

RE-DIRECT EXAMINATION

QUESTIONS BY DR. ENGELHORN:

Q Mr. Duda, before the intermission, you stated an SS doctor came several times of the week. Do you know whether any prisoner doctors came?

A Yes.

Q What did these prisoner doctors do?

A They did the same thing as the first doctor. They were

the assistants of the first doctors. They looked over the people and tried to help them.

Q Do you know how many prison doctors were involved in that?

A It could be 7 or 8 or 10 of them.

Q What nationality were these prisoner doctors?

A Polish, Russian, French, Ukranian.

Q How often did these prisoner doctors come?

A When the major came, the first doctor, they always came with him.

Q You stated that about 300 people died in blocks 21, 22 and 23, is that right?

A Yes.

Q Can you say how many people died when Podak was there?

A Do you mean during the quarantine time? It was at this time that Podak was the block leader of those blocks.

Q Isn't it known to you that a block leader by the name of Kuebler was there?

MR. BERKOWITZ: I object to that question as leading.

PRESIDENT: Objection sustained.

DR. FINGELHORN: I will withdraw the question.

Q Was there any other block leader there beside Podak?

A Yes.

Q Who was that?

A Kuebler.

Q During what period of time was Kuebler there?

A When we men arrived in the transport, we had to go to the bathing room. People were already lying in a pile and water was poured on the people.

Q Then am I to understand correctly that the transport, when it arrived with sick people on it they were sick with fleck typhus?

A Yes. Because the fleck typhus had already broken out in Majdanek.

DR. EXNER/HORN: No more questions.

PRESIDENT: Any further re-direct examination?

DEFENSE: Nothing further, Sir.

PRESIDENT: Re-cross?

RE-CROSS EXAMINATION

QUESTIONS BY MR. DENSON:

Q Do you understand German?

A Very little.

Q When was Kuebler made a block leader?

A Kuebler went away from the block and came back. When he came back he was roll call leader. I can not state the exact date. It could have been in the year 1944.

Q As a matter of fact, Kuebler was there at the time you came to Flossenburg, is that not correct?

A No.

Q Then who was the block leader when you first came to Flossenburg?

A It was a young SS man, a tall man.

Q Of the period of time that Sodak had blocks 22 and 23 as block leader, how much of that time was Kuebler also a block leader?

A When Sodak was block leader, Kuebler was no longer in the camp; he had gone away.

Q And Sodak was block leader of Blocks 22 and 23 in April, 1943, was he not?

A Yes, Sodak was block leader at that time. We had to stay in the bath three days and Kuebler was also there. He poured water on the people and threatened them. The people were crying. Then Sodak was granted authority and then after that time Kuebler went away.

Q Do you feel indebted to Sodak for his kindness towards you?

A I feel indebted to Sodak because he saved my life. I was already dying at that time.

(Duda-Re-direct)

MR. DENSON: No further questions.

PRESIDENT: Re-direct?

MR. MCKAY: Nothing further.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COLONEL JACKSON:

Q You mentioned that Wodak saved your life. What did you mean by that?

A When I said that Wodak saved my life, I meant to say that I was lying there ill, that he came and gave me medicine, gave me food, and after I began to recover, he kept me in his care. He not only took care of me but he also took care of my friend, -- Sgawczyk.

Q Was Wodak present when you were kept in the shower for three days?

A No.

Q He wasn't present in the barracks at all during that particular time, -- in your barracks?

A Every morning, Wodak would come to the barracks and take the roll call.

QUESTIONS BY THE PRESIDENT:

Q The court understands that Wodak was a block leader at that particular time, is that correct?

A After Knebler had gone away, Wodak came and stayed as block leader the whole time.

Q Well, just what was the duty status of Wodak during the time of this shower incident?

A I don't know that. I don't know that because I didn't know him at that time.

Q Just where were these showers located?

A That was on the other side of the kitchen. There was a steps there where the laundry was washed and underneath that was the bathroom.

(Dudas-Court)

Q It was right there under Block 12, is that the idea?

A No.

Q What block are you referring to then?

A I am talking about the block where the bathroom is located and where we had to stay for three days.

Q What was the number of that block?

A This block didn't have any number.

Q And who was the block leader of that particular block at that time, -- at the time of the shower incident?

A There was a capo of the bathroom. I didn't know him by name, because later on he went away to the army, and I didn't know the SS man.

Q Just who was responsible for keeping you in the showers for those three days?

A The command post of the camp.

Q You mentioned you arrived in Flossenburg on the first of April 1943?

A Yes.

Q What was the reason for your coming to Flossenburg?

A I never asked about the reason. We were all picked out in Majadanek. We were all put in railroad cars. As they said we were going to be put in gas chambers, and we came to Flossenburg.

Q What was your status, -- prisoner of war?

A I was six days a prisoner of war in 1939. I took part in the defense of Warsaw. I was released after six days and worked in political organizations in Warsaw.

QUESTIONS BY LT. COLONEL SIMLY:

Q On direct examination, you stated you knew Wodak since April 1, 1943, and then on questions by the president of the court, you stated you didn't know Wodak at the time of the shower incident, now which statement is true?

(Duda-Court)

A When I answered that the first time, I gave a general answer. I knew Kodak there from the first time he came in our block.

Q Did you know him on the 1st day or didn't you?

A I knew him from the first day, starting when he came into the block.

Q What day was that?

A We came in Flossenburg, and then after the first days, -- we stayed three days in the bathroom, -- and it could be after the fourth or fifth day, I came to know Kodak.

Q Then you didn't know him at all on the 1st of April 1943, did you?

A No.

Q You don't know what he was doing during the shower incident, where he was, or anything?

A I don't know.

QUESTIONS BY LT. COLONEL SKIELVIG:

Q Duda, you have mentioned arriving on the 1st of April and at that time the typhus epidemic broke out. How long did that epidemic last?

A This fleck typhus epidemic didn't break out in Flossenburg; it had broken out already in Magadanek before we came to Flossenburg. The epidemic lasted the whole time we were in quarantine and then 100 were sent to Gross Rosen and the rest to the hospital.

Q That lasted then for approximately two months while you were in blocks 22 and 23?

A Yes.

Q Was there any other typhus in Flossenburg at that time, other than in blocks 22 and 23, in the quarantine blocks?

A No, I didn't hear of any fleck typhus being in other blocks.

Q Do you know whether there was an epidemic in Flossenburg itself? And what year did it take place, if there was such an epidemic?

A Fleck typhus and diarrhea repeated themselves in the last days, before the evacuation.

(Duda -Court)

Q Was there any particular year in which it predominated in Flossenburg?

A That was the last time, just before the evacuation when so many of the prisoners were sick, and many of the block eldests were sick, and during this time many of the juveniles were sick.

QUESTIONS BY LT. COLONEL BURCHAM:

Q Go over to the chart and show were this bath was where you were quarantined for three days?

A No. 4.

MR. MCKAY: Let the record indicate that the witness has indicated the block with the No. 4 in black and the word "Laundry" in red, on Prosecution Exhibit No. 5.

QUESTIONS BY THE LAW MEMBER:

Q What was your number in Flossenburg?

A 3072.

Q Now, while you were in Flossenburg, did you know a Jewish boy named Max Epstein who arrived on or about 16 February 1945?

A I knew very many Jews in Flossenburg, but I don't remember this name. We only knew the people who were the nearest friends in Flossenburg; otherwise, we only knew the numbers.

Q Now this boy arrived there, he says, on the 16th of February 1945, and left with the evacuation. He testified that Buttner had beaten to death approximately 10 Polish Jews during the time that he was there, do you know anything about this?

A I didn't hear anything about that.

Q If Buttner had beaten to death, during that period a number of Polish Jews, would you have known about it?

A Of course.

Q What would have happened, if anything, if Buttner had beaten

(Duda.-Court)

a number of Polish Jews in that period of time?

A If that had happened and the report made about him, then he would have been called to account by the command post and had to answer for it and would have been put in arrest.

Q Did I understand you to say that there were a number of Poles living in Buttner's block during that period of time?

A I know that there were Jews and Poles in every block, but I can't tell you whether they were Poles or Polish Jews in block 12.

Q If he had beaten to death a number of Poles during this period of time, what would the Poles have done about it, if anything?

A The Poles couldn't have done anything then. All they could have done would have been to turn in a report to the camp eldest and if he had been in the right mood, then he would have forwarded this report on.

QUESTIONS BY COLONEL JACKSON:

Q Did you ever hear of Buttner beating some Polish Jews so severely they had to be sent to the hospital?

A I never heard anything about that, sir.

PRESIDENT: Any further questions by members of the court? Apparently there are none. Re-direct?

RE-DIRECT EXAMINATION

QUESTIONS BY MR. MCKAY:

Q Duda, calling your attention to the place where you had your shower when you first arrived at the camp, will you explain to the court the construction of that building in comparison with the other barracks and buildings in the camp?

A This building was built about the same way as the kitchen, the same construction. There was a washroom, for washing clothes, and then another space for the heating installations up above this wash room for clothes and next to that the place where the clothes could be

disinfected.

Q Will you explain the construction of the building, how it compared with Block 12, where you lived later on?

A Block 12 was a barracks which was constructed of wood and this barracks where the shower bath was, was made of stone.

MR. MCKAY: That is all.

PRESIDENT: Recross?

RE-CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Did I understand you to say, Duda, that the first time you knew Wodak was approximately on the 4th or 5th of April, 1943?

A It was like this: We were sent to the block in groups from the washroom, and it was on the next day that I learned to know Wodak.

Q Who was it that gave you broth and cigarettes up in Majadanek?

MR. MCKAY: That is objected to as going beyond the scope of examination, and for the reason that it is irrelevant and immaterial to any issue in this case.

PROSECUTION: May it please the court, this witness has testified he knew Wodak on the 1st of April, then, that he knew him again on the 5th of April, -- that is the second phase of his testimony. Now, I want to see if there is a third phase to his testimony.

MR. MCKAY: If it please the court, the prosecutor should remember that his examination is limited to the examination by the court at this time.

PROSECUTION: The counsel fails to understand, may it please the court, that I can show by this witness' former testimony on the direct examination that he is lying, and at this time I propose to do it. If I recall the testimony, he testified when he was up in Majdanek, that Wodak gave him cigarettes and soup from the rationing, prior to the time he came to Flossenburg.

(Duda-Re-direct and Recross)

MR. MCKAY: I am sorry but I think the prosecutor misinterpreted the testimony and I object to the prosecutor calling this witness a liar in his face, when he has shown during the entire testimony an exemplary attitude and has told the facts as no other witness has ever done in this court.

PROSECUTION: If the defense wants to argue the case, I will be perfectly glad to do so. I think this witness has committed himself in the manner in which I have described and I have a perfect right to characterize him in that way, based on his testimony.

DR. WELLWORK: What happened in Majadanek does not have anything to do with this trial and nobody ever maintained that the accused Podak was ever in Majadanek.

PROSECUTION: May it please the court, going back to the generalities of this, I asked him who it was that gave him cigarettes in Majadanek. It was my understanding that it was Podak; if I am wrong, the witness' answer would certainly correct it.

PRESIDENT: The reporter will read the question.

(Thereupon the reporter read the question.)

PRESIDENT: The objection of Mr. McKay is overruled.

(Witness answering.)

A In Majadanek, -- nobody.

Q Where was it that you did the wrestling?

A In Flossenburg.

Q And who was it that accompanied the transport from Majadanek down to Flossenburg?

A There were a number of SS officers who accompanied this transport. I assumed that this particular SS officer was the leader of the transport. I don't remember his name. He wasn't very big; he was stocky.

PROSECUTION: No further questions.

(Duda-Re-cross)

MR. MCKAY: In view of the witness' testimony, I think it only correct and proper that the prosecution's comment of calling the witness a liar should be stricken from the record.

PROSECUTION: May it please the court, when this witness first testified, he testified that the block leader of blocks 22 and 23 was Wodak during the months of April and June 1943. Later on, after this matter came out with respect to the mistreatment during the first three days there, he was asked when he first knew Wodak and also if Wodak was in command. Then, he stated he didn't know Wodak at that time, then he said that he knew him later, the 4th or 5th of April. I submit I have a perfect right to characterize this witness' testimony in the way in which I have and to say that he is not worthy of belief, based on his interest with respect to Wodak and his gratitude to him for having saved his life; and based, further, on the conflict in his original testimony and the testimony brought out by the court. Not only that, may it please the court, but such a motion is grossly improper on the part of counsel because he is trying to make this court commit itself at this time as to the credibility of the witness brought before it.

MR. MCKAY: I will rely on this court any time to determine the credibility of any witness that ever testifies before it; but I am objecting to this kind of comment now which is improper in the presence of this man and seeks to bring this court, this body, into disrespect to men who have shown to this court their honest endeavor to give the court the facts.

DR. ENGELHORN: I do not understand how the prosecution can call this witness a liar. This witness has taken all the trouble he ever could to tell the truth here. The witness has completely cleared up this point and explained how he learned to know the accused Wodak. It is even harder for me to understand why the

prosecution could say he is not telling the truth because he is indebted to Kodak. Whenever you do someone something good, especially to the degree Kodak helped this witness, yes, you are indebted to him, but I don't see how you can draw a conclusion from this gratitude and indebtedness that the witness is committing perjury.

PRESIDENT: The court will be closed.

(Thereupon the court closed at 1640 hours and opened at 1705 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Lt. Colonel Wilson, Mr. Hall and Dr. Becker who are absent on business of the accused; and all the accused are present with the exception of Buddensieg, Oswalt, Olschewski, Lipinski and Jakubith, who are sick in the hospital and whose interests are being taken care of by their counsel, and Foller who is conferring with counsel.

The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Reporter, the court requests you to read the first statement made by the prosecutor relative to the matter in question.

(Thereupon the statement was read by the reporter as follows.)

> "PROSECUTION: The counsel fails to understand, may it please the court, that I can show by this witness' former testimony on the direct examination that he is lying, and at this time I propose to do it. If I recall the testimony, he testified when he was up in Majdanek, that Kodak gave him cigarettes and soup from the rationing, prior to the time he came to Flossenburg."

PRESIDENT: Now, Mr. McKay, the court understands your motion

to strike was based upon that statement.

MR. MCKAY: That's right.

PRESIDENT: The motion to strike on the part of Mr. McKay, is denied.

LAW MEMBER: Let the record show that the law member objects to the ruling of the court.

LT. COLONEL BURCHAM: I also object to the ruling of the court.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1710 hours and opened at 1720 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Lt. Colonel Wilson, Mr. Hall and Dr. Wacker, who are absent on business of the accused; and all the accused are present, with the exception of Buddensieg, Oswald, Olschewski, Lipinski and Jakubith, who are sick in the hospital and whose interests are being taken care of by their counsel, and Rohler who is conferring with counsel.

The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: The motion of defense counsel, Mr. McKay, is denied. The court will adjourn until 9:00 o'clock on Monday morning.

(Whereupon the court adjourned at 1730 hours.)

CA/GI 13 gws.

Court

Legal Form No. 8

First, Duplicate of K, Duplicate of C Copy

V 1 11

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG
Case No. .....

Pages 5040 - 5106 Incl.
Prosecutor .....

~~Summary~~
~~Intermediate Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 14 October 194 6
0900 - 1700 Hours

Reporter .....

~~Members of Court~~
WITNESSES:
ADAM DUDA
KARL BUTTNER
HANS LIPINSKI

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

R E C O R D O F T E S T I M O N Y

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

14 October 1946 0900 - 1700 Hours Pages 5040 - 5106 Incl.

T E S T I M O N Y

WITNESSES:	Direct	Cross	Redirect	Recross	Court
ADAM DUDA			5041		
KARL BUTTNER	5041 5053	5062	5066		5066
HANS LITINSKI	5067 5074	5088			5090

E X H I B I T S

No.	Description	Marked	Rec'd in Evidence
D-19	Drawing of Block 12		5060
D-20	Statement, Moris Franz Schueller	5090	5092
D-20-A	English Translation	5090	5092
D-21	Statement, Moris Franz Schueller	5090	5093
D-21-A	English Translation	5091	5093
D-22	Statement, Karl Dragan	5091	5093
D-22-A	English Translation	5091	5093
D-23	Statement, Dr. Franz Strafella	5091	5093
D-23-A	English Translation	5091	5093
P-72	Statement, Moris Franz Schueller	5096	5097
P-72-A	English Translation	5096	5097
P-73	Statement, Karl Dragan	5100	5100
P-73-A	English Translatio n	5100	5100

Vs 227-10/14-1of-1

Flossen

Camp Dachau, Germany
14 October 1946

MORNING SESSION

(Thereupon the court reconvened at 0900 hours.)

PRESIDENT: Court will come to order.

MR. [illegible]: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson, all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall, Mr. O'Connor and Dr. Becker, all the accused are present with the exception of Buddensieg, Olschewski, Oswald, Reiling, and Jakubith who are sick in the hospital, whose interests are being taken care of by their counsel.

The witness is reminded that he is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court would like to see the assistant prosecutor, Mr. Bernovitz and the defense counsel, Mr. McKay.

(Discussion off the record.)

PRESIDENT: Redirect, Mr. McKay.

MR. McKAY: Nothing further, sir.

PRESIDENT: Recross?

MR. [illegible]: Nothing further, sir.

PRESIDENT: Questions by members of the court? Apparently not. Dr. Hagelberg.

ADAM TUDA, called as a witness by the defense resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

(Tuda--Redirect)

REDIRECT EXAMINATION

QUESTIONS BY MR. ROBERTS:

Q One question. Mr. Dada, what is your profession at the present time?

A I am a top sergeant in the Polish Guard.

Q Were you earlier in the Polish Army?

A Yes.

Q What military rank did you have then?

A I was a sergeant.

MR. ROBERTS: Nothing further.

MR. MC KAY: Nothing further.

MR. SHEROVITZ: Nothing further.

PRESIDENT: The court understands, Mr. McKay, that the defense is finished with this witness.

MR. MC KAY: Yes sir.

PRESIDENT: The witness will be excused.

(thereupon the witness was excused.)

MR. MC KAY: The next accused who desires to take the stand in his own behalf is the accused Karl Puttner, No. 5.

PRESIDENT: Puttner, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED PUTTNER: Yes.

PRESIDENT: Proceed, Mr. McKay.

KARL PUTTNER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Mr. Puttner, are you one of the accused in this case?

A Yes.

was sent to the concentration camp Regensburg in 1934, directly after I had finished the other sentence. In January, 1935 I came to Roterwegen. In August, 1935, I came to Berlin to the Gestapo prison, Columbus House. The 9th of November 1936, I came to Sachsenhausen. 15th of June, 1937 I came to Buchenwald. On the 6th of August, 1938 I came to Flossenburg and stayed there until August, 1942. In August 1942, I came to Auschwitz and stayed there until 1945. On the 6th of February, 1945, I came to Flossenburg for the second time.

Q Why were you sent to prison for 2½ years that you just mentioned?

A That isn't the only penitentiary sentence I had. I was sent three times to the penitentiary.

Q This last one you had, what was the offense for which you were convicted?

A 30 years ago in the world war, 1914 to 1918, I was sentenced to 15 years because of desertion. Later on, because I belonged to

(Buttner - Direct)

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Q Will you explain to the court when you were a prisoner in Flossenburg, the dates?

A I must mention that I was in Flossenburg twice.

Q When was the first time that you were in Flossenburg?

A From the 6th of October, 1938 until 1942. The second time I came the 6th of February, 1945 and stayed till the end.

Q Will you explain how it came about that you were a prisoner in a concentration camp?

A I will have to go back and make a few ramifications and go back to the year, 1933.

Q You will have to speak a little louder, Mr. Reitzer.

A After I had sat out a 2½ year penitentiary sentence, I

Poland, my punishment was reduced down to 7 years. In 1924 I was released and allowed to go home to my family in Poland. In 1925, in Poland, I married. I married a girl who was a native of Poland. She was the widow of a former German sergeant of the police. She had 4 children. After the marriage ceremony I took over a position as censor agent in taking the census. In every list which was drawn up in regard to each particular household in connection with the census there was a column which designated the mental attitude of the parties concerned, politically. By looking at these lists, it was discovered that my wife had a German state of mind, that she was friendly toward the Germans and that our children had refused to take instruction in a Polish school. The rest of my career in Poland was in danger. I was looking for a way out because I wanted to spare the children and my wife was begging me to do it. I came to an agreement with my wife. By pretending that certain facts were true that were not true, I got access to an opportunity to get across the border so I got across the border in an illegal fashion. I reported my children into a German school and after three months, the children received German citizenship. My plan succeeded and I was allowed to return to Poland if I wished to. However, then my wife refused to return. I asked for a divorce on mutual grounds and she refused. I offered my wife reason for divorce by allowing myself to become guilty of a moral dereliction. I got a sentence of one year in the penitentiary, and a penitentiary sentence is grounds for divorce. My wife wouldn't allow herself to get a divorce, in order to force me to remain with her. I wanted to force this doing of a divorce so in '31, I again caused myself to be accused of this same moral dereliction and my wife got a divorce. My punishment lasted until the time when the 3rd Reich took over 40 years ago. 40 years ago there was some swindle affair in which I was involved; I believe the swindle of 60

Sa 317-10/14-1of-5

pennies. I believe I got 3 days arrest for that. 35 years ago, when I wanted to go back and enter my parent's house, there was a girl on the ground floor of the house. She stood at the window and stuck her tongue out at me. I smashed in the pane and the result was I got convicted of disturbing the peace and I got a punishment of 6 marks fine.

Q You have stated that you returned to Poland. Will you explain to the court just what your nationality is?

A According to the Geneva Convention, I am a Polish citizen.

Q Did you ever disclose that to the German authorities during the time that you were in Germany?

A After I had already been in the 3rd Reich in Germany, it was impossible for me to say that. That would have been the same thing as signing my own death warrant. I have kept this secret with me and not revealed it to anyone until I revealed it now to this court.

Q Upon your return to Flossenburg in February of 1945, to what detail were you first assigned in camp?

A After the usual formalities, I ended up in block 21 which was the new arrival block.

Q How long did you remain in block 21?

A It was probably around 10 days long, I can't remember exactly because I was completely gone.

Q What do you mean you were completely gone?

A I didn't know whether I would live through it or not.

Q After you had been in block 21 for some 10 days, what happened to you?

A The compelidest, Uhl, came to me and he said boy, you are really going to the dogs. He said, if you want to, you can move

over to block 12 and you can remain there. He said, take over the block right away, and that was how I was scheduled to be blockeldest of block 12. It was not official, I was not picked out by the administration.

Q What was the condition of block 12 when you first went to the block to become blockeldest?

A Nobody was living in block 12, that was a block that had been newly erected.

Q What did you have to do with the block from the time you arrived?

A I had to set up the block.

Q What do you mean you had to set up the block?

A I had to have beds brought in, cupboards, lockers, mattresses and blankets all brought in; to make a long story short, everything which was necessary for such a block. In the middle of February the kitchen personnel from block 1 came over to me, and I received 200 potato peelers in addition. Mr. Durgmueller, a sergeant of the SS who was chief of the kitchen, had the strength personnel of the block.

Q What year was it that you became blockeldest of block 12?

A 6 or 7 weeks before the evacuation, 1945.

Q Calling your attention to prosecution exhibit No. 5, which is the plan which hangs over on the wall to my left, I would like to have you come over here, Mr. Buttner, and point out to the court where block 12 which you were blockeldest of, was located.

A (Indicated).

MR. MC KAY: Let the record show that the witness indicated a block with the number 12 in red on prosecution exhibit No. 5.

Q Where was the kitchen?

A The kitchen was in front of the block, toward the roll call square (indicated).

MR. MC FAY: Let the record show that the witness has indicated a block with a No. 5 in black and the word "kitchen" in red.

Q When you moved into block 12, and all the permanent had moved in, how many people were living there?

A The highest strength report which I had from the potato peelers was 800, and in addition, you have to count in the cooks and the kitchen personnel. There were 30 cooks and there were various people who worked in the food warehouses so that all in all the total was 45.

Q Will you explain to the court just what your duties were as blockeldest?

A You can't talk much there about duties. You can't compare block 12 at all with the other blocks. It would have been just as well if there had not been any blockeldest there at all.

Q Who had the responsibility of sending the men to work who lived in block 12?

A The cooks were there for that purpose.

Q Will you explain to the court what capos were in your block during the time you were blockeldest?

A The kitchen personnel had a kitchen capo whose name was Unger, German citizen, and a Polish assistant capo or second capo. The potato peelers had 3 capos. There was a negro, a person from Asia and a German.

Q Just what did you have to do with the personnel then that lived in block 12?

A The only thing I had to do was to preserve quiet and order. I was more of a night watchman than a blockeldest, because the work in the kitchen would go from one night to the next night and it would be a constant turnover in shifts. Some would be summoned at 2:30, others at 4, and others at 5:30. The only reason anyone was there was to see that things kept moving. There was no other reason.

Q What, if anything, was your responsibility with regard to the cleanliness of the block?

A I had people for that purpose whom I paid well. They were potato peelers.

Q You stated that there were several shifts that worked in the kitchen. What was the situation with regard to people remaining in the block during the day?

A There were two shifts with the potato peelers, day and night shift. There were also two shifts in the kitchen personnel, but these shifts were summoned at different times. The kitchen personnel were summoned at different times than the potato peelers.

Q What was the nationality of the personnel that made up the kitchen personnel?

A I don't believe I can tell you that any better than the witness, Dada, did. He knows them perhaps still better than I do. I only know thisquuch that I had a French general there and that there was another general there too. There was a Serbian Lt. Colonel, some ministers, something like that, professors, officials of the criminal police; all kinds of nationalities. The Germans who were there included my clerk, Munster, and the capo, Unger.

Q You stated you were more or less a watchman in block 12. What was your biggest difficulty with regard to discipline in there?

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A In block 12, I didn't have any difficulties at all to speak about. Life went on there in a very normal way.

Q Will you explain to the court what food you served in block 12 during the time you were blockeldest there?

A The kitchen personnel and the potato peelers received their food in the kitchen with the exception of the portions of food and the bread which they received from me and which were delivered to them in the kitchen at their place of work.

Q How often would this distribution of bread occur?

A Once a day there would be bread, just once a day.

Q When was that usually served?

A In the evening.

Q What was your fitness, your physical condition during the time that you were blockeldest?

A Well, the best person to tell you about that is Dieselman. If I were to tell you about it then it would sound as though I was trying to make the matter for my own benefit. At that time, I was firmly convinced that I would never live through it.

Q Why did you feel you wouldn't live through it?

A Because I was done for, I was fallow.

Q I hand you a diagram which has been marked for identification as defense exhibit No. 19 and ask you if you know what that is?

A I made that myself. That is a diagram of the kitchen block.

Q Will you explain to the court where the kitchen personnel lived in your block according to the diagram which you now have in your hand?

A The potato peelers were on the left side of the block and

the kitchen personnel on the right.

Q Will you explain to the court what the condition was in your block with regard to the number of beds that were available for the personnel to sleep in?

A First of all, I will tell you about the potato peelers. As I told you already, the highest number of potato peelers was 200 men. It had that exact number so that they could work in two shifts, and only 100 men would sleep at the same time. I had 111 bed frames so that each one had his own individual bed. When the relief came, the people who had been sleeping would go to work and the people who had been working would each have a bed for one man. That lasted all week long, except for Sunday night. On Sunday night there wasn't any work, so that two hundred men would be there and have to sleep all at the same time, 200 men if I tell you the highest number. It is understandable of course that on this night when there were 200 men there, 2 men would have to sleep in one bed, and even when 2 men slept in one bed there would be 11 beds empty. In order to give the people more air and space I took out 7 bunk beds. That is, I had 132 bed frames. I reduced this number because I wanted to have more air and more space in the room for the people and I ended up with 111 beds. As it was, I had to have only 100 men sleep at the same time. On the right side of the block where the kitchen personnel were, there were 96 beds. As I already mentioned, there were 46 members of the kitchen personnel. But in order to occupy these 96 beds, I would take various people from the potato peelers as Capos, people who worked in the kitchen with Mandel and they would come over into this wing. Then the number of potato peelers who would have to sleep on the left-hand side was still more

reduced. As the witness, Duda, testified, nobody could raise any objection about the way life was on the right side of the block. I believe that it would have been possible to fix up the left-hand side of the block where the potato peelers were still better then it was but we stood in front of the collapse of the nation.

Q What was the nationality of the people who worked as potato peelers?

A There was probably every nationality there. I believe that the majority of them were Russians and Poles.

Q Will you explain to the court just what you had to do as blockeldest with the delousing of the personnel who lived in your block?

A I didn't have any delousing in my block.

Q Why?

A The people were clean. They had their own bath. The potato peelers already had bathed themselves when they came back from work. If they washed themselves at all, the potato peelers would wash their face before they went off to work in the morning after they had crawled out of bed. As far as cleanliness is concerned, the witness, Duda, testified about that, he was a cook there. He said that twice a week they would get a new set of underwear. Almost every week, the potato peelers would get a new set of underwear and every two weeks they would get a clean suit.

Q I notice on this diagram you have on each side of the block a series of blocks. Will you explain to the court what these blocks are?

A Those are the beds. Each oblong here means 3 beds, one on top of the other.

Q Does your diagram actually then, portray 3 beds for each block that you have designated on the plan which has been identified as defense exhibit No. 19?

A Yes, 3 beds, and in this big oblong here is 4 times 3.

Q I notice that you have been pointing to the area on the left of the entrance which you have said the potato peelers lived. What was the condition as to the number of beds as portrayed by your blocks on the right side where the kitchen personnel lived?

A There were 111 beds here and here there were 56 beds (indicated).

Q On the right side where the kitchen personnel lived?

A There were 56 beds on the right-hand side of the kitchen personnel.

Q Were those 3-decker beds or were those just individual beds?

A They were actually 3-decker beds, but they weren't occupied because there were no boards in them and so two people would sleep in them. They would occupy 2 or the 3 decks.

Q You stated that you put in all of the furniture in this block. What was the general structure of block 12 in comparison to the other blocks in the camp, for example, blocks 3, 4, 5 and 6? How did they compare in structure with block 12?

A I remember the other blocks from the time I was there from '38 to '42. Except for block 19, I didn't know the construction of any of the other blocks in the year 1945. But to judge from that what I heard here in the courtroom, there must have been a really bad situation in those other blocks then. As far as I can figure out, there were 900 to a 1000 men in the other blocks. I had 200 men with me.

Q What was the condition that you were faced with as block-eldest with regard to prisoners who did not live in your block, trying to get into block 12?

A If the prisoners in the camp had had a chance to get into my block, they certainly would have accepted it. But unfortunately, I didn't have any influence in that matter because the people were sent to me from the work commitment office, but I can betray this much to you. My people ran around. They ran around with hands about this size--their heads were this thick. They had plenty to eat. They were well nourished. If the kitchen block didn't have any more food, then nobody had any more food.

Q Did you have anything to do with the distribution of food in your block other than the bread which you spoke of?

A I already told you that except for the bread ration, the potato peelers and the kitchen personnel received their food in the kitchen.

Q Did you ever have any instances while you were blockeldest of block 12 in which a number of prisoners who didn't live in block 12 would try to get into block 12?

A It is possible that someone succeeded in getting into the block without my knowing it, but I resisted that as much as possible. I kept them out as much as I could and first of all, the first reason why I did that was because the people in this block were better people. They had all kinds of private things with them, their own things and it is self-understood that foreign elements would have to be kept away from this block.

PRESIDENT: The court will take a half-hour recess.

(Thereupon the court recessed at 1000 hours.)

Camp Dachau, Germany
14 October 1946

MORNING SESSION (Continued)

(Whereupon the court reconvened at 1035 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Denson and Mr. Pinter, who are absent on business for the prosecution; all the personnel of the defense are present with the exception of Colonel Wilson, Mr. Hall, Mr. O'Connor, and Doctor Hacker; all accused are present with the exception of Buddensieg, Olschewski, Oswalt, and Jakubith, who are sick and whose interests are beingtaken care of by their respective counsel, and Fenz and Pinter, who are conferring with counsel. If there areany spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room?

PRESIDENT: Continuation of direct examination, Mr. McKay.

KARL BUTTNER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. MC KAY:

Q May it please the court, Mr. Buttner, will you explain to the court the incidents which occurred to you prior to your evacuation of Flossenburg?

A I don't know what the defense counsel is referring to.

Q Mr. Buttner, will you explain to the court what happened to you prior to the evacuation of Flossenburg in April, 1945?

A I was drafted into the so-called camp police.

Q Will you explain to the court how it came about that you were drafted into the camp police?

A All of a sudden it was said that the block eldests were to report to the orderly room. There the camp eldest, by order of the commanding officer, gave us "Right face, forward march, direction of the supply room." There we were handed out Italian uniforms and remained inside the camp for the time being.

Q Were you given any weapons of any kind?

A No.

Q Mr.Buttner, did you ever perform any duties as a camp policeman?

A Not really, no.

Q What do you mean "not really"?

A Because I wasn't ordered to do anything.

Q How did you yourself leave Flossenburg?

A In the Italian uniform but I didn't participate in any evacuation.

Q Will you explain to the court the incidents of your leaving Flossenburg?

A After the camp had been evacuated a 1st Lieutenant by the name of Schraeder called an assembly of us and he marched out of the camp with us as the very last man. He didn't belong to the evacuation march.

Q How many men left Flossenburg with you?

A Eighty prisoners.

Q Where did you go?

A For two days we marched around by ourselves and everyone

went where he wanted to go. I don't know whether they were together on the third day. I myself was gone the second day.

Q When were you arrested by the Americans?

A On the 30th of April, 1945 I reported to the American troops, and served with the American military police as of the 1st of May.

Q How long?

A Until I was arrested, the 26th or 27th of June.

Q Of what year?

A 1945.

Q When did you come to Camp Dachau?

A The 21st of December, 1945.

Q Were you interrogated by the prosecution prior to the beginning of this trial?

A Yes, I was interrogated again here because of a statement made by a former block inmate made in Cham but there evidently weren't any facts at hand because they released me again immediately until April of this year. Several of us prisoners were standing in the small court room, we had numbers on and there were other prisoners who identified us. Among these was a certain Epstein. This Epstein identified me as the block eldest of block 12 and a few days later after this consultation I was called to Mr. Shaw.

Q What transpired when you were confronted by Colonel Shaw?

A It was explained to me that a certain man by the name of Epstein had made certain accusations against me. I took that as a bad joke and laughed. He said, "No, No, you don't have to laugh about it. That's a serious thing. I'll bring you before

a court."

Q Was this man Epstein that you have just talked about the same man who testified against you in court?

A I didn't know the man Epstein by name but when he was in the witness chair I realized he had been in my block.

Q Did you know when Epstein came to live in your block?

A He could have arrived that day only, the day I took over the block.

Q Do you recall his being in the block during the time you were block eldest?

A Yes, he must have been.

Q Mr. Buttner, do you recall the testimony Mr. Epstein gave against you in court here?

A Yes.

Q Do you recall the charge that Epstein made that you beat a man so severely that he fell down and was carried into the corridor covered with blood, and the next morning he was taken out dead?

A That is all based on such an imagination that I still can't grasp it today. I can only say that never happened with me. For one thing I didn't have the strength to do that and for another thing I am not made that way. I am neither a beater, nor did I have any reason to do it.

Q Mr. Buttner, during the time you were block eldest in block 12 did you ever have in your possession a rubber hose?

A I have been a prisoner in camps since 1934, but by my honor and conscience I can state I never yet touched a rubber hose. I wouldn't know for what purpose, because when I was block eldest I believe I could only ridicule myself in front of

these prominent people.

Q Do you recall a witness by the name of Lesak who testified against you?

A Not Lasek, but Lesak, that name is familiar to me.

Q Did you know that man prior to the time he testified here?

A I didn't know him but here in the court room I could determine he was a man who worked in the Labor Commitment Office.

Q Do you know a man by the name of Adolf Kuffner who testified against you?

A Kuffner is absolutely unknown to me. I didn't even know him when he was in the witness chair here.

Q Can you think of any reason why these men have testified against you?

A So far as the witness Lesak is concerned, I should like to state that man is in error. He identified me as the block eldest of block 24.

Q Just what was block 24, Mr. Buttner?

A When I got to the camp block 24, or at least block 24 designated by the witness, was a disinfectant block.

MR. MC KAY: I now call your attention to prosecution's Exhibit 5 on the wall here, and I'd like you to point out to the court block 24 as you knew it when you were last in Flossenburg.

ACCUSED BUTTNER: That is to say, I don't know that block. I only know it from this court room here. That was supposedly this block here (indicating). No, just a minute, this block here (indicating).

MR. MC KAY: Let the record show that the witness has indicated a block with #24 and a line in red on prosecution's

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ACCUSED BUTTNER: That is to say, I don't know that block. I only know it from this court room here. That was supposedly this block here (indicating). No, just a minute, this block here (indicating).

MR. MC KAY: Let the record show that the witness has indicated a block with #24 and a line in red on prosecution's

Exhibit No. 5 as block 24. Now, Mr. Buttner, you may return to your chair.

(Thereupon the witness resumed his place in the witness chair.)

QUESTIONS BY MR. MC KAY (Continued):

Q During the last time you were in Flossenburg what was block 24 used for?

A I don't know that block. I only know it here from the court room and I can remember it was a disinfectant block.

Q Was that used as a disinfectant block during the time you were in Flossenburg from February to April of 1945?

A Yes, I assume so because I never saw any prisoners there.

Q Did you ever yourself serve any food in block 12?

A It was distribution of bread.

Q I mean serving food in block 12 itself.

A No.

Q You stated earlier this morning that you had no disinfection in your block. You recall that Kuffner testified that you disinfected people in front of your block. How do you explain that?

A That is a misunderstanding on the part of the defense counsel. It doesn't mean disinfecting but delousing.

Q I mean delousing.

A There was no delousing in the block.

Q What do you mean by delousing, Mr. Buttner?

A I don't know how other blocks handled it, I never looked around in the camp, but from the progress of the trial it is evident they held delousing daily or every other day in the other

blocks. Such a thing didn't exist in my block. It was out of the question.

Q The witness Kuffner testified that you served excess food from the kitchen in your block. Will you explain that to the court?

A I could never get surplus food from the kitchen because the kitchen personnel as well as the potato peelers were served in the kitchen. Where he got that fairy tale I don't know.

Q. During the time you were block eldest of block 12 will you explain to the court what, if any, connection you had with the black market activities carried on in Flossenburg?

A I didn't have any connection whatsoever but I was able to observe from my block what was going on there.

Q Where did the black market activities occur when you could see them from your block?

A That was at the corner of the kitchen block in the place between the kitchen block towards block 12, in that space between block 2 and block 12.

Q Will you explain just what you had to do with the people who gathered in that space for black market activities while you were block eldest of block 12?

A I wasn't concerned whatsoever with the black market. It wasn't within the scope of my block interests.

Q Did you at any time ever have occasion to take any action, disciplinary action, against people who were crowded in front of your block?

A No.

MR. MC KAY: At this time the defense offers in evidence

Defense Exhibit No. 19, which is a drawing of block 12 and the arrangement of the block, prepared by this witness.

PRESIDENT: Is there any objection on the part of the prosecution?

MR. BERKOWITZ: No objection, sir.

PRESIDENT: Subject to the objection of any member of the court, Defense Exhibit No. 19 is received in evidence and will be given such consideration as the court seesfit.

(Thereupon the document heretofore marked Defense EXHIBIT No. 19 for identification was received in evidence as Defense Exhibit No. 19, is attached hereto, and made a part of the record.)

QUESTIONS BY MR. MC KAY (Continued):

Q Is there anything else you wish to explain to the court with regard to the accusations and charges made against you by witnesses in this court which I have not covered by my examination?

A In regard to the witness Lesak, I should only like to mention that he is completely in error. Regarding the witness Kuffner, I should like to mention that he had to admit in his cross-examination that the man whom he saw beaten was a big strong man. The court is getting a look at me here and I am everything else but big and strong.

Q Mr. Buttner, is your physical condition now the same as it was when you were block eldest of block 12?

A I feel healthier now and better than I did in former days.

Q Is there anything else with regard to the charges which have been made by witnesses against you in this court which you

would like to explain to the court at this time?

A Regarding the witness Epstein, I should like to mention that I can't conceive of the purpose that he is following with his accusations. If he wants revenge because I am a Reich German of nationality then I can understand that. His statements are knowingly untrue.

Q Is that all, Mr. Buttner?

A I have nothing further.

MR. MC KAY: You may cross examine.

PRESIDENT: Cross examination, Mr. Berkowitz.

MR. BERKOWITZ: If the court will allow me, I'd like a short recess to examine some papers.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1110 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show all personnel of the court are present; all the personnel of the prosecution are present except Mr. Denson, who is absent on business of the prosecution; all personnel of the defense are present except Colonel Wilson, Mr. Hall, and Doctor Wacker. All the accused are present except Buddensieg, Olschewski, Oswalt, and Jaehnichen, who are sick in the hospital, and Fenz and Pinter, who are conferring with counsel, the interests of the accused who are absent being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room.

PRESIDENT: Proceed with cross-examination, Mr. Berkowitz.

KARL BUTTNER, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now, Mr. Buttner, you said all the people who worked in your block were strong healthy people?

A It is a natural thing that they were not all equally strong. There were weaker ones and stronger ones.

Q Would you say they were all well nourished?

A They got enough food, whether they were well nourished I don't know.

Q Are you the only exception then of those who were weak and undernourished?

A Yes, I myself was one of the worst ones there.

Q Didn't you get enough food from the kitchen?

A I received food, yes, but I can't digest. I neither have teeth nor do I have a good stomache.

Q These prisoners who worked in the kitchen usually had surplus food, didn't they?

A I don't know.

Q Didn't you ever see prisoners coming up to your block to try to purchase or receive food from the prisoners who worked in the kitchen?

A That is impossible because no food was distributed at my block.

Q Didn't some of the prisoners bring food from the kitchen and distribute it at the block?

A No, they brought sweet and coffee and sweet and tea in the evening. As has been testified by the witness, Duda, I wasn't concerned with that either, because that was up to the kitchen personnel. They brought that stuff back for themselves.

Q Well didn't prisoners come from other blocks to block 12 to try to get some extra food?

A Not to receive any surplus food. There were prisoners hanging around block 12 to scrounge something or to steal something.

Q And big crowds gathered before block 12?

A I wouldn't say that, but the way block 12 is situated it is at the foot of the steps and everyone in the whole camp had to pass by it.

Q Will you answer my question? Did big crowds gather around block 12?

A No.

Q On no occasion?

A No.

Q They never came there to get food or anything?

MR. MC KAY: I object to that question as repetitious.

MR. BERKOWITZ: May it please the court, my first question referred to food, and now I refer to other gatherings.

PRESIDENT: The objection of Mr. McKay is sustained.

QUESTIONS BY MR. BERKOWITZ (Continued):

Q Now you stated in direct examination that you never used a rubber hose and beat the prisoners. What did you use?

A I didn't use a rubber hose or any other instrument.

Q Did you beat prisoners?

A Yes.

Q What did you use?

A My hand.

Q Anything else?

A No.

Q Did you use a riding whip?

A No.

Q On no occasion?

A No.

Q Did you use a metal pail to beat prisoners?

A No,

Q Did you know a prisoner by the name of Kimmelman in your block?

A No, I don't know him.

Q Did you ever beat a man named Kimmelman so badly he had to be taken to the hospital?

A No,

Q Did you ever kick a prisoner?

A No,

Q Did you have a Czech prisoner in your block?

A I don't know that,

Q Well, did you on one occasion kick a Czech prisoner so badly he had to go to the hospital?

A No,

Q Your particular job was waking the prisoners up to see they got to work, wasn't it?

A Yes,

Q What did you do when they didn't get up because they were sick or for some other reason?

A They got up, all right, because when they were lying there twelve hours they were happy to get up.

Q Was there ever an occasion in your block when a prisoner didn't get up when you asked him to?

A No.

Q Not one single occasion of that character?

A No, they were happy to go to work.

Q You stated that you committed two moral derelictions. What were the natures of these two moral derelictions for which you were punished?

A Paragraph 176.

Q What was the nature of your moral dereliction?

A A touching of an immoral nature to get a reason for a divorce.

MR. BERKOWITZ: May I correct that? You stated that when you had some difficulty in Poland you looked for a way to get out of your trouble and you accomplished that by making false representations. Did you state that?

A I didn't have any difficulties in Poland. I had difficulties regarding the attitude of my wife.

Q Didn't you state to the court this morning that you looked for a way out of your trouble and you resorted to false representations?

A I stated this morning that I undertook something because of the solicitations on the part of my wife and my children.

Q Will you answer my question: Did you or did you not state this morning that you looked for a way out of your trouble and you resorted to false representations?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect examination, Mr. McKay.

REDIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Mr. Buttner, on cross examination you stated you beat prisoners with your hand. Will you explain to the court why you did that?

A Not on my own behalf, but for instance if one of the potato peelers came over and said, "Block eldest, there are two men fighting each other in the hall," I couldn't get around it, but I had to quiet the fight down. Of course one would start that in a good-natured manner, but if the fight wouldn't cease then one would occasionally give a slap in the ear. No one could die from my slaps.

Q Will you explain to the court how you administered those slaps?

A Very simply, with an easy stroke.

MR. MC KAY: That's all.

PRESIDENT: Recross.

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: Are there any questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q What was your number in the camp, Mr. Buttner?

A When I was in Flossenburg for the first time I had No. 242. The second time in camp I had No. 47, 229.

Q How old are you?

A On April 30 I will be 56 years old.

QUESTIONS BY THE PRESIDENT:

Q These men you slapped, were they big men or small men?

A I had all strong broad-shouldered Russians.

Q Then the court understands that the men you actually slapped were good sized men, is that correct?

A Yes, they were superior to me three times as far as physique is concerned.

PRESIDENT: Any further questions by any member of the court? Apparently not. Mr. McKay?

MR. MC KAY: Nothing further, sir.

PRESIDENT: Mr. Berkowitz?

MR. BERKOWITZ: Nothing further.

PRESIDENT: The court understands that the defense is finished with this particular witness?

MR. MC KAY: That is correct, sir.

PRESIDENT: The witness will be excused and will resume his place in the dock.

(Thereupon the accused left the witness stand and resumed his place in the dock.)

MR. MC KAY: The next accused who desires to take the witness stand in his own behalf is Lipinski, No. 23.

HANS LIPINSKI, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

PRESIDENT: Lipinski, the court understands that you desire to take the stand in your own behalf.

ACCUSED LIPINSKI: Yes.

PRESIDENT: Proceed, Mr. McKay.

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Mr. Lipinski, you are one of the accused in this case?

A Yes.

Q When were you a prisoner in Flossenburg Concentration Camp?

A Since the 15th of February, 1945?

Q How long did you remain a prisoner in Flossenburg?

A Until the 20th of April, 1945.

Q From where did you come to Flossenburg?

A From the camp Gross Rosen.

Q Will you explain to the court just how it came about that you were a prisoner in a concentration camp?

A On the 17th of June, 1939, I was arrested by the Gestapo in Berlin. The reasons for this arrest were refusal to work, sabotage, and resistance.

Q Did you have any convictions prior to this time you have just described?

A I had some minor previous convictions but those were no reason to take me to the camp.

Q What was the nature of those previous convictions?

A A few convictions, a few money sentences: one hundred marks, one for two hundred fifty marks, one for four weeks of arrest or one thousand marks. Then I received a sentence of six months in 1939 from June 17, 1939, until December 17, 1939, and January 17, 1940, I was transferred to the camp at Sachsenhausen.

Q Did you remain in a concentration camp continually from January, 1940, until you were liberated in camp Flossenburg?

A I remained in Sachsenhausen from the 17th of January, 1940, until September 17, 1940. On September 17, 1940, I was loaded on a transport and was taken to Gross Rosen. The 18th of September I arrived at Gross Rosen and stayed there until

the 5th of February, 1945.

Q Upon your arrival at Flossenburg what color triangle were you given to wear?

A Until the fall of 1941 I had the red triangle. I should like to mention from the beginning on that this triangle didn't have anything to do with politics. This triangle merely indicated that I was a protective custody prisoner because I am from a free state. I am from Danzig. I was born in Danzig which was a free state at that time. Because of my arrest in 1939 my pass port of the free state was taken away from me and in1941 I was informed that from then on I would have the green triangle. That is why I had the green triangle from 1941 on, and received the same triangle in Sachsenhausen.

Q On your arrival in Flossenburg in February, 1945, to what detail were you first assigned to work?

A First we were in quarantine.

Q Where were you kept in quarantine?

A In block 20.

Q How long did you remain in quarantine?

A Our quarantine lasted ten to twelve days.

Q Following your quarantine what were you assigned to do?

A After the quarantine was over people were sifted and sent to the work details.

Q How many prisoners came from Gross Rosen to Flossenburg on the transport?

A We marched away from Gross Rosen on the 5th of February, six thousand prisoners. Then the transport was divided. We marched one day and were then loaded on to trains in Janowitz.

Q How many prisoners actually arrived with you from Gross Rosen at Flossenburg?

A I can't state precisely how many there were. Six thousand were left.

Q Can you give us an estimation?

A The transport was divided. It could have been two thousand or twenty-five hundred men.

Q After you were released from quarantine to what detail were you assigned to work?

A February 28 we were ordered to block 2 by order of Commandant Koegel, all Germans. There several Germans were picked out as block eldests or camp eldests to go to other outcamps. About seventy prisoners remained, those that hadn't been picked out. On the 3rd of March, the 29th of February or the 1st of March, the camp eldest told me that I would have to take over the job of a camp capo because my predecessor, Max Feuchtmeier, had been released March 3.

Q Mr. Lipinski, you stated you were camp capo. I'd like to have you explain to thecourt the difference between camp capo and a camp eldest.

A The camp eldest is the number one man responsible for the whole camp. The camp capo is, for instance in Flossenburg, a funny man, a clown for everyone. He is only there to keep the camp clean, he has no connection with the prisoners themselves actually, he is only responsible for the work details given to him for his supervision. He actually doesn't have anything to say.

Q As camp capo just what details did you have under your supervision?

A I had about seven or eight details.

Q Will you explain where those details worked?

ACCUSED LIPINSKI: May I explain at the map?

MR. MC KAY: Yes.

ACCUSED LIPINSKI: This was the so-called roll call square (indicating).

MR. MC KAY: Let the record show that the witness has indicated the roll call square as being between block 1, block 19, block 4 and block 5, as shown on prosecution's Exhibit No. 5.

ACCUSED LIPINSKI: One detail of ten prisoners worked here (indicating) who had no other job but to see that the roll call square was clean at all times. Those were the court cleaners, as they were called. The second detail was here (indicating). Near the kitchen there was a garbage pit. All the garbage from all blocks was taken to this garbage pit.

MR. MC KAY: Let the record show that the witness has indicated the garbage pit as being located to the right of block 5 in the area between that and another block without a number, above the word "shop", block 5 being indicated in black, also with the word "kitchen" in red.

ACCUSED LIPINSKI: Right across from that is the vegetable shop there (indicating.)

MR. MC KAY: Let the record show that the witness has indicated a block immediately above a block designated as "shops" running parallel with a block bearing the name "shops" on prosecution's exhibit 5.

ACCUSED LIPINSKI: Three carts were there which took

out the garbage from the pit to the stone quarry (indicating). Ten prisoners worked each cart. That was the secon. detail. The third detail kept this square (indicating) in front of headquarters building clea .

MR. MC KAY: Let the record show the witness has indicated the area immediately to the left of a block identified as block house and also between that and a block designated by the figure 1 in black outside the prisoner's compound, on prosecution's Exhibit 5.

ACCUSED LIPINSKI: Six prisoners worked here (indicating). The fourth detail worked here in the garage square (indicating). Eight prisoners work here (indicating). They also had to see that everything was kept clean.

MR. MC KAY: Let the record show that the witness has indicated as the garage area the area immediately above a block with the number 2 in black, in the area outside the prison compound enclosure on prosecution's Exhibit 5.

ACCUSED LIPINSKI: The fifth detail marched to the outside on the road construction detail, also under my supervision and under the supervision of my fellow accused, Obchewski. This sixth detail was here in the potato basement (indicating).

MR. MC KAY: Let the record show that the witness has indicated that the potato cellar was located off Prosecution's Exhibit No. 5 in the direction north as shown by the arrow on Prosecution's Exhibit 5.

ACCUSED LIPINSKI: The strength of this detail in the potato cellar was thirty-five prisoners. The seventh detail kept the SS settlement clean . They cleaned up up here (indicating).

MR. MC KAY: Let the record show that the witness has indicated that the seventh detail worked in the area designated by a number of blocks to the left of the block with a number 10 on Prosecution's Exhibit 5.

ACCUSED LIPINSKI: I should like to mention detail one, the garbagemen detail; detail 6, road construction detail; and detail 5, potato cellar. These three details were regular details. They had their designated capos and went outside steadily. They were under my supervision whenever they marched out and returned to the camp. I always, of course, had to combine other details. For instance, I had fourteen men working around the kitchen, twelve men worked near block 12, then I had another detail which drove on the outside to clean up SS barracks but that was no steady detail, only when the SS requested them.

PRESIDENT: The court will recess until one thirty o'clock this afternoon.

(Whereupon the court recessed at 1200 hours.)

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AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: Let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Denson, who is absent on business of the prosecution; all the personnel of the defence are present, with the exception of Lt. Colonel Wilson, Mr. Hall and Mr. O'Connor, who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, who are sick in hospital. The interest of the named accused are being taken care of by counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Mr. McKay.

HANS JOHANN LIPINSKI, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY MR. MCKAY:

Q Mr. Lipinski, when were you made camp capo?

A March 3, 1945.

Q How long did you remain as camp capo?

A I worked until 30 March 1945. From the 30th of March 1945 until the 8th of April 1945, I was in the hospital where I was being treated for my ears. And then I did my duty until the 20th of April 1945 again. However, on the 16th of April 1945, all work detail ceased and there was no necessity any more for a camp capo. Only one detail kept working and that was the potato detail.

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Q Mr. Lipinski, you mentioned that certain of your details were regular details and certain others were not, what did you mean by that?

A Under regular detail, I meant, of course, the potato detail which could not march out in the morning regularly to their work with their capo; they always had the same men in their detail.

Q Now, how were the men selected for the details which you had, which you didn't consider regular details?

A If a detail was needed, for instance, to clean up SS barracks or clean up other things, then I had to pick up men from the blocks. With the exception of the quarantine block, every block eldest had to give me men from his block, if they were available.

Q Now Mr. Lipinski, what, if anything, did you have to do as the camp capo, with the new arrivals who came into Flossenburg?

A I didn't have anything to do with the new arrivals, as camp capo. That was up to the camp, that is, to the orderly room, and to the various block leaders as to whose blocks these people would be sent to.

Q As camp capo, did you have anything to do with the disinfection room and the laundry?

A I didn't have anything to do with the disinfection or the laundry. However, when arrivals came and could not take all the clothing in the disinfection room, it was my responsibility to watch over them and see that no one took anything.

Q Now, Mr. Lipinski, will you explain the circumstances surrounding you immediately prior to the evacuation of Flossenburg?

A The circumstances of the camp capo, or the circumstances in the camp?

A I have special reference to their transportation into the camp police.

A I was actually not in the camp police at all, at least not doing duty there. When I was released from the hospital on the 8th of April 1945, the majority of German prisoners had been sent to the camp police, already several were on the outside of the camp in

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the SS barracks and several were still in the camp, for instance, the block eldest, several capos and a few from the hospital, -- they still did their duty inside the camp.

Q Now, Lipinski, I would like to have you explain to the court the circumstances of your actual evacuation of Flossenburg.

A I did not take part in the evacuation of Flossenburg, but I saw them being evacuated.

Q When did you, yourself, leave Flossenburg?

A On April 20th at 3: 30 in the afternoon.

Q Lipinski, whereddid you go after you left Flossenburg on the 20th of April?

A On A pril 20, 1945 at 4:00 o'clock or 3: 30 in the evening, in the afternoon, I left the camp Flossenburg.

Q Where did you go?

A I went towards Weiden.

Q Then what happened?

A There I had an accident.

Q Then what happened?

A Because I could not go ahead to Weiden, I returned to Flossenburg, not to the camp Flossenburg, but to the village of Flossenburg. I stayed overnight there at a man's house whose name I do not know any more. However, this man is in the camp there and I have asked Mr. McKay several times to find the man for me. I stayed with him until the 21st of April at 12: 0 noon. I got myself a bicycle and got on this bicycle and drove off in the direction of Cham.

Q Lipinski, when were you arrested by the Americans?

A 27 August 1945. I was arrested in Freising. Since May 2, 1945 I lived here in Schleissheim. This is 5 kilometres further. That is, 5 kilometres away from Dachau and I lived here since the 2nd of May. I worked there in the caretaker's office at Schleissheim and I stayed there until the 27th of August 1945. August 27th, I took a pleasure

trip to Freising. At the pleasure grounds there, amusement grounds, I met many Poles. I stayed there for about an hour and talked to the Poles. When I wanted to leave there, after an hour, I was stopped there by the Polish Jews at the exit of the amusement grounds. I cannot state which camp they had been in. I am not certain about that. However, they had, from my conversation with the other Poles gathered I had been a capo, because the others had greeted me as "capo". They started talking to me. They asked if I wanted to sell my bicycle. I said "no". They asked me if I wanted to sell my watch. I said "No, no", -- because I needed them myself. He said "Good-bye". I went to an inn across from the amusement park. Half an hour later, these two Poles returned with two uniformed Americans. They arrested me for the reason I had been a capo. I was turned in at Freising to the CIC and because it was a Sunday, I was taken away from the CIC to the interrogation jail in Freising. I stayed there until Monday, 26 August. Then I was taken to the CIC in Freising and there, of course, I was unlucky enough to fall into the hands of an Americanized Jew. He must have been a former prisoner. I saw by his haircut he had been a former prisoner. He had short cropped hair. He didn't ask many questions: One, my name; if I had been a capo in Flossenburg. I said "yes". He said, "That is sufficient". Then I was taken away again. On September 27, 1945, I was taken to Camp Moosburg. I was confronted with several Jews there, three or four times. No one recognised me there; at any rate, no one accused me there. I stayed there until January 1946. In 1946 in January, I was taken to Camp Dachau here and since that time, I have been in Dachau.

Q How many times have you been interrogated since you have been in Dachau?

A In my case, I have not been interrogated none whatever. I was questioned about the transport from Gross Rosen to Flossenburg by an American officer, whom I didn't see unfortunately here, who has not

appeared here. I didn't know who he was. I described the whole thing to the officer. He asked me how many prisoners had gone on the transport and how many dead people I had seen. At that time, I explained to him that the Gross Rosen transport had exceptionally many dead because the dead in the Gross Rosen transport were between 800 to a thousand. He asked me how that happened. I told him that ever since November of 1944, the prisoners had been taken from Lublin to Auschwitz. From Auschwitz they were taken back to Gross Rosen. The transport from Auschwitz to Gross Rosen took five weeks because the people went on foot. In January 1945, these people came to Gross Rosen. On February 5, 1945, we proceeded. The people didn't have any chance whatever to take a rest from November to January 1945. In Gross Rosen, we were told we would get rations for three days. We received one can of sausage, two pounds, and one loaf of bread, it was said for three days, but we were on the train for 10 days. At first, we were to go to Buchenwald. Buchenwald didn't accept us because it was overcrowded. Then we came to Ahrdruf. In Ahrdruf, another transport had arrived before us and it was overcrowded and then we came to Flossenburg. When we arrived in Flossenburg, almost everyone was dead. That is what I told the officer.

Q Lipinski, do you recall seeing the witness Lesak when he appeared against you?

A Yes. I should like to tell Mr. McKay that I had been interrogated one more time. He asked me how many times I had been interrogated by the officer here. What I just described was my first interrogation. Then I wasn't interrogated any more but I was confronted. I remained in the bunker at Dachau and was dragged before the tribunal eight times. Finally, not less than 150 prosecution witnesses, withwhom I was confronted. That took 8 times. Mr. Shaw was present upon this confrontation, Mr. Berkovitz and Mr. Pinter. These people did not recognize, - that is to say, many of them recognized me but none of them accused me. Mr.

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Shaw tried with all his might to get a witness against me. By order of Mr. Berkowitz, I had to squat like that, holding the black board in front of me. That was here in the small court room, but that didn't help. No one recognized me and no one wrote me down. Then I was brought back again the second time before a Polish lieutenant. He was questioning me and asking me the reason why this transport had had so many dead, when an American officer entered. He entered just when I was about to give my explanation. I cannot remember who he was. He said, in English, "This boy here is not a prisoner; he is an SS man". That was the second interrogation. Shortly before the trial started, I was again brought before Mr. Shaw. When I entered Mr. Shaw's room, the following were present: Mr. Shaw, an interpreter, a stenographer and Mr. Pinter. Mr. Shaw asked me whether I was a prisoner. I said, "Yes". He said to me that I should not lie, that I was an SS man. Then he said could I read German. I said, "Yes". He showed me a certificate and typed on this certificate it said I had beaten to death a thousand Jews in the camp, or a thousand prisoners. He said, "Now read those names". I read. He said, "Do you know any of these people?" I said, "No". He said, "You can go." He then asked me one more question, "When did you go to Flossenburg on the transport?" I had to go back to Gross Rosen then and through all that mix up, and then I could go. Those were all the interrogations I have had so far. I was never asked any question that pertains to the camp conditions in Flossenburg, whether I had beaten anyone in the camp or any such thing, -- never was I asked that.

Q Do you remember the witness Lesak who appeared against you?

A Lesak was in the labor commandant's office.

Q Did you know Lesak in Flossenburg?

A Yes.

Q Did you ever have anything to do with him in any way?

A In his capacity as a member of the labor command, I had dealings with him and his organization. I had to go to him to get people for hard work. Or else if I had to put someone on another detail, for instance, on the various details, for instance if I had to put one person in another person's place, -- before I could do this, I had to have permission of the labor command office.

Q Did you know the witness Cuchara who appeared here against you?

A He was in the orderly room, or so to speak, the second roll call clerk. His job was to count the work details which marched out in the morning according to the report made by the capo. If a capo reported a work detail present with 300 men, he had to count the detail and thus put it on the book.

Q What was the nature of your association as prisoner in Flossenburg with Lesak and Cuchara?

A I had no private connections with these two men. It was merely a matter of duty. If I marched out in the morning to the various work places with 180 men respectively, if I marched these men to their work place, 180, then I had to give my strength report to the orderly room. I handed it to the orderly room, to Lesak, and in turn, it was Lesak's duty to report this strength, to take this strength report to the kitchen who had to issue 180 portions, but the orderly room itself did not have any right to request any food rations. There were always 12 clerks in the orderly room, so I, as camp capo, instead of getting 180 food rations, as I had requested, only got 150, and I was told the following: "You can give soup to the other 30 at night." They could do that to me for three days and then the scene was there. I didn't take that; I said, "If 180 men work for me, 180 men would certainly have a right to get their food". I furthermore said if the orderly room wanted to eat, they could

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get that from t e kitchen and not take it away from the men, and then, of course, it was out, and I was in bad with all clerks. Lesak told me I didn't know the conditions in the camp; that I had to get used to it first.

Q Lipinski, do you recall a prosecution witness Nebel w o testified against you?

A Yes; I know he was orderly in block 20, and at the same time was second clerk in the block too. But that wasn't legal; he worked there illegally. He wasn't a regular clerk there. He liked it quite well in block 20; otherwise, he would not have een transferred there to the quarantine block again. I never had anything to do with this man; I was surprised he testified against me here. On the contrary, he was one of those who, whenever he ca e along at night, he would get something from me.

Q Lipinski, what kind of clothes did you wear while you were cap o in Flossenburg?

A This is my camp jacket here (indicating) and my dark trousers are in the bunker now, except they are not fixed. The ma ority can verify that because they know the clothing.

Q What kind of headdress did you wear while you were in Flossenburg?

A During the winter ti e, a ski cap, and I wore a blue hat during the spr ngti e when it was raining in June. I ent without a hat for the summer. The reason was that I would not have to take off my hat for every SS man who came along.

Q Did you ever know the witness Neuman who testifi d in this court?

A No. Th t is the witness whom Mr. Berkowitz wanted to hang on me. Mr. McKay, that witness Neuman was never in Flossenburg at all.

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Q How do you KNOW that?

A For one thing, he testified his name was Joseph Neuman; that he was a Pole; that his profession was a newspaper reporter; that he had been in Flossenburg three times; that he was sent from Buchenwald once and returned to Flossenburg, AND that he was sent to Natzweiler, then that he again returned to Flossenburg and then he was sent to Gretis and then returned again. If this person actually came to Flossenburg February 25th, it is impossible that he could come through three camps from February 25th until April 20th. Secondly, the name Joseph Neuman is given in the books three times, that is correct, but every time this Joseph Neuman has a different birth date and is listed as a Hungarian Jew. This prisoner, Joseph Neuman, who appeared as a witness to give testimony before this court, stated he was sent to Flossenburg April 7th. The prisoners who had been sent to Flossenburg 7 April were never sent inside the camp; they were stationed in Delta Hall, in the stone quarry. This prisoner went on a transport on the 15th-16th of April. Witness my fellow accused Hoinisch, for whom he carried his package or drinks, he is an accused but that does not matter in this case. I am telling the court openly and frankly that this Joseph Neuman was given the name of a dead man and they let him read the name in the book. This Joseph Neuman was a very different person from what he was.

PRESIDENT: The court feels the defense is more or less wasting time on this matter here. The Neuman who testified was Erich Neuman and he testified as a defense witness. Now, if you can bring any material out as a reason for going into this, the court desires it; but the court feels it is a waste of time, until the name is straightened out.

R. MCKAY: I have referred to the last witness who testified for the prosecution.

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MR. BERKOWITZ: The name is Isaac Neuman, and he testified on the 7th of July on or about page 2247, of the transcript.

PRESIDENT: Unless the matter can be tied up, Mr. McKay, the court feels it is just a waste of time.

CROSS-EXAMINATION BY MR. MCKAY (continued)

Q Mr. Lipinski, you have been talking about a man by the name of Neuman. Are you in any way referring to the last prosecution witness in this case?

A Yes; the last man. This was the man who was reprimanded by the president of the court, because Mr. McKay objected to his presence in the court room at that time.

Q Do you know what his first name was?

A He said here, Joseph Neuman. On being questioned by the court here, he said his name was Joseph Neuman and that he was a newspaper man. Upon my questioning Mr. McKay as to what this witness was doing here, because, as a matter of fact, he was to testify against another accused, I was told by my defense counsel that my defense counsel had questioned this and that the witness had said he didn't even know me.

PRESIDENT: Mr. McKay, the court will take a short recess, in place, to give you an opportunity to go into this matter.

(Whereupon the court recessed in place at 1420 hours and reconvened at 1430 hours.)

PRESIDENT: The court will come to order.

MR. MCKAY: Let the record show that there was a witness by the name of Isaac Neuman who appeared for the prosecution, and also a witness by the name of Erich Neuman who appeared for the defense.

PRESIDENT: Allright, Mr. McKay, that clears the situation. Continue.

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QUESTIONS BY MR. MCKAY:

Q Now, Lipinski, the witness Isaac Neuman testified that the camp care came into block 20. Did you, as camp capo, ever enter block 20, as camp capo?

A Block 20, -- I lived there.

Q When was that?

A From 15 February until the 20th of April.

Q Where was block 20 located in the camp?

A I will point to this on the map (indicating).

MR. MCKAY: Let the record indicate that the witness has indicated block 20 written in red letters, on Prosecution Exhibit No. 5.

Q Lipinski, will you explain to the court how you lived in block 20 after you had been released from quarantine?

A I was never released from quarantine. I remained in block 20 because the other blocks were just as crowded. Actually, I didn't live in block 20 too much; I was only counted there during the roll call. But the witness Newman could not have seen me in block 20 because he wasn't in the camp. But at the time that the witness said that, I was in block 20, and if the man had supposedly died, as indicated by Mr. Berkovits, at that time, I was not camp capo. I only became camp capo on March 3, when my predecessor, Fuecht, and my fellow accused, Mathoi, were released.

Q Lipinski, is there anything else you want to state to the court with regard to the accusations of the prosecution witness against you?

A If I have the permission of the president, yes.

PRESIDENT: Allright, proceed.

A I should like to tell the president that this witness Emil Lecak testified that I came from Gross Rosen; and that I was

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camp capo. When I arrived from Gross Rosen, I was never a camp capo. I only became camp capo on March 3, 1945. He furthermore stated that I had beaten a Pole in front of block 2 to the ground with my fist. That is not true. He furthermore stated that I had leather gloves with me. I have had gloves at times, but they were not leather gloves. They were merely a suede leather glove, merely a glove. The second witness, Cuchara, testified that I had taken prisoners to the orderly room, that I beat them there in the face so that they bled, - that one prisoner had been a Pole and the other prisoner a Russian. He further stated that I did written work in the orderly room. I was never a camp clerk or clerk in the camp of Flossenburg. The third witness, Ernst Nebel, he stated that he had lived with me in the same block, in barracks 20. He stated that I usually beat Polish Jews, that I kicked sick people with my feet and that I had stated that they were too lazy to go outside. I should like to remark to this: I have never, since I have been in Flossenburg, participated in any roll call, because roll call in blocks 20, 21, 22 and 23 was at 4:00 o'clock in the afternoon. While I had to stay outside on the roll call square to wait for my details to come back, such as potato details and so forth, I was automatically written down and counted in the roll call. The witness Nebel himself stated that that was correct: that I was very seldom present during the roll call. The witness furthermore stated that upon his return from work, he saw that I took clothes away from people whom I could, who took clothes away from the pile when the disinfection was going on. The witness on the chair stated, word for word, I had taken clothes away from the people who had passed from the pile, that I had taken away from them clothes they had taken from this pile. And as far as the prosecution was concerned, they stated I had made them take off their own clothes, made them strip in the open; and then another sentence was added: it was winter. When I was camp capo, it was spring. The witness furthermore

stated that I was wearing a real ring. The prosecution said that I had a ring, that it could have been a big ring too. My ring did not weigh more than 1/2 ounce, and if you really smack someone in the face or hit someone in the face, that is certainly not premeditated but merely an instantaneous action. When you catch someone doing something wrong, you wouldn't take off your ring on an impulse. I should also like to state that the witness is supposed to have stated I was a notorious beater; beatings were commonplace with me and he assumed all that without any reason. That wasn't said by the witness, but it got in there somehow. He also stated that the prisoners whom I had beaten were taken to the hospital and did not return. I should like to state here that prisoners from blocks 20, 21, 22 and 23 were in quarantine blocks, and when one of these people went to the hospital they were never returned anyhow. Upon the questions by Mr. McKay, it was determined how these clothes were taken away from the disinfection. That was the testimony of the three witnesses who accused me here. Whether Nebel's testimony is still valid, I do not know. At that time, it was rejected by the court, but as it appears to me, it seems to be valid. In other words, I am still being accused of it.

Q Have you anything else now that you want to say to the court, Lipinski, with regard to the charges which have been made against you by prosecution witnesses?

A I should like to mention why it was quite difficult for me at camp camp in the camp of Flossenburg. If you, as a new arrival in any camp, received by order command of a job and if the work is to be carried out, then it is up to you, and then you could not be just to every prisoner. On March 20th, I resigned from my work. I had a serious fight with the labor leader Heller. The reason was that I had four apprentices, four stone men. The apprentices were

supposed to make some steps out of rocks near the kitchen, and that didn't go fast enough to suit the labor leader and he scolded me, with words. He told me to get them, to make these prisoners work faster. I told him that I wasn't sent to Flossenburg, I didn't come to Flossenburg to beat up prisoners. One word followed the next and he told me he would report me. I tore my armband off and threw it in front of his feet. My fellow accused, Wiesfeldt, who was the assistant roll call leader at that time, witnessed this. I utterly refused to drive any prisoner to work or to beat any prisoners because of any kind of work. I then had to go to the orderly room, and the roll call leader Gerberger was present there. Evidently, he was still sensible enough; otherwise, I would have received twenty-five. The whole thing was settled; I was to take back my job and then they left me alone. After that, I didn't bother too much about the work; I left it to the fellow who was an interpreter and at the same place, assistant camp capo, -- he managed the whole thing from then on. I was to speak only to the representative.

PRESIDENT: The court will be recessed for half an hour.

(Thereupon the court recessed at 1500 hours.)

suppered to make some steps out of rocks near the kitchen, and that didn't go fast enough to suit the labor leader and he scolded me, with words. He told me to get them, to make these prisoners work faster. I told him that I wasn't sent to Flossenburg, I didn't come to Flossenburg to beat up prisoners. One word followed the next and he told me he would report me. I tore my armband off and threw it in front of his feet. My fellow accused, Hasefeldt, who was the assistant roll call leader at that time, witnessed this. I utterly refused to drive any prisoner to work or to beat any prisoners because of any kind of work. I then had to go to the orderly room, and the roll call leader Gerberger was present there. Evidently, he was still sensible enough; otherwise, I would have received twenty-five. The whole thing was settled; I was to take back my job and then they left me alone. After that, I didn't bother too much about the work; I left it to the fellow who was an interpreter and at the same place, assistant camp capo, -- he managed the whole thing from then on. I was to speak only to the representative.

PRESIDENT: The court will be recessed for half an hour.

(Thereupon the court recessed at 1900 hours.)

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the personnel of the court are present, all the personnel of the prosecution are present except Col. Denson and Mr. Pinter who are absent on business of the prosecution, the personnel of the defense are present with the exception of Col. Wilson, Mr. Hall, Mr. O'Connor, Dr. Wacker and Dr. Engelhorn who are absent on business of the accused, and the accused are present with the exception of Buddensieg, Olschewski, Oswalt and Jakubith who are sick in the hospital and Riebusch who is sick in the bunker, and Pons and Pinter who are conferring with counsel. The interests of the absent accused are being taken care of by their counsel. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave the court room.

PRESIDENT: Continuation of cross-examination by Mr. Berkowitz.

HANS JOHANN LIPINSKI, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS-EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ (Continuing):

Q Do you remember the name of the French barber?

A No.

Q Would you know the name if I told you?

A You can go ahead and say the name if you want to.

Q Was it Perconet?

A I remember the names in my block 20 in Flossenburg

very well in general. At any rate this French barber was one of the best prisoners who was there at block 20.

Q As a matter of fact wasn't this French barber in block 21?

A No he was in block 20.

Q Do you recall an incident in block 20 where a man was beaten by three men in block 20.

A No.

And then after he was beaten in block 20 he was carried out in a blanket?

A Where were they carrying him to?

Q Do you remember that incident -- block 20?

A Mr. Berkowitz, there were no such incidents in block 20 at all.

Did you know a capo named Hans?

A No.

MR. BERKOWITZ: I don't recall whether I had asked that previously or not.

Q How many times did you strike prisoners in block 20?

A I would like you to check the facts. I didn't touch a single prisoner in block 20. Besides, block 20 didn't have anything to do with me. I was camp capo outside the camp. I got up at six o'clock. At six-thirty I had to be in the roll call square and I didn't come back until noon. I would have to be at the roll call square at twelve-thirty noon and in the evening at eight-thirty I had to be back again.

Q How many prisoners did you beat in Flossenburg?

A I already told you I didn't beat anyone.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect, Mr. McKay?

MR. McKAY: Nothing further, sir.

PRESIDENT: Questions by members of the court? Colonel Jackson.

EXAMINATION BY THE COURT

QUESTION BY COLONEL JACKSON:

Q Who did you relieve as camp capo?

A Max Feuchtaeler.

PRESIDENT: Further questions by members of the court? Apparently not. Redirect, Mr. McKay?

MR. McKAY: Nothing further, sir.

PRESIDENT: The court understands you are finished with this witness for the time being, Mr. McKay?

MR. McKAY: That is correct, sir.

PRESIDENT: The witness will be excused and returned to his position in the dock.

(Whereupon the witness was excused and resumed his place in the dock.)

MR. McKAY: Miss Reporter, I hand you a sworn statement which I'd like to have you mark Defense Exhibit 20.

(The document referred to was marked Defense Exhibit 20 for identification.)

MR. McKAY: Miss Reporter, I hand you another document which I would like to have you mark 20-A.

(The document referred to was marked Defense Exhibit 20-A for identification.)

MR. McKAY: Miss Reporter, I hand you another statement and ask you to make this defense exhibit 21.

(The document referred to was marked Defense Exhibit 21 for identification.)

MR. McKAY: Miss Reporter, I hand you a document that I would like to have you mark as 21-A.

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(The document referred to was marked Defense Exhibit 21-A for identification.)

MR. McKAY: Miss Reporter, I hand you another document which I would like to have you mark Defense Exhibit 22.

(The document referred to was marked Defense Exhibit 22 for identification.)

MR. McKAY: Miss Reporter, I hand you another document which I would like to have you mark as Defense Exhibit 22-A.

(The document referred to was marked Defense Exhibit 22-A for identification.)

MR. McKAY: Miss Reporter, I hand you another document which I would like to have you mark as Defense Exhibit 23.

(The document referred to was marked Defense Exhibit 23 for identification.)

MR. McKAY: Miss Reporter, I hand you another document which I would like to have you mark Defense Exhibit 23-A.

(The document referred to was marked Defense Exhibit 23-A for identification.)

MR. McKAY: At this time the defense offers in evidence sworn statement taken before Mr. Joseph Kirschbaum, duly authorized to administer oaths, from Franz Schueller, No. 20, and the defense offers in evidence Defense Exhibit 20-A which is the English translation of Defense Exhibit 20. I have another exhibit No. 21 which is a statement by the same man and the defense offers this statement in evidence and Defense Exhibit 21-A which is the English translation of Defense Exhibit 21, both these statements being taken before Joseph Kirschbaum, US Civilian Investigator, duly authorized to administer oaths.

Defense offers in evidence the statement taken by Joseph Kirschbaum from Karl Dragan, statement written in German. Defense

offers in evidence Defense Exhibit 22 and Defense Exhibit 22-A which is the English translation of Defense Exhibit 22.

The defense offers in evidence Defense Exhibit 23 which is the statement of Dr. Franz Strafella, statement taken before Joseph Kirschbaum, US Civilian Investigator. The defense offers in evidence Defense Exhibit 23-A which is the English translation of Defense Exhibit 23.

At this time the prosecution have statements in the nature of statements taken from these same witnesses which they wish to introduce as part of the cross-examination.

PRESIDENT: Any objection on the part of the prosecution as far as Defense Exhibit No. 20 is concerned?

MR. BIRKOVITZ: No objection to 20 or 20-A.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense Exhibit No. 20 and give it such weight as the court considers it warrants. Any objection to Defense Exhibit 20-A on the part of the prosecution?

MR. BIRKOVITZ: No objection, sir.

PRESIDENT: Defense Exhibit No. 20-A will be received by the court in evidence.

(The documents heretofore marked Defense Exhibits No's. 20 and 20-A for identification were received in evidence as Defense Exhibits No's. 20 and 20-A, and are attached hereto and made a part of the record.)

PRESIDENT: Are there any objections on the part of the prosecution as far as Defense Exhibits 21, 21-A, 22, 22-A, 23 and 23-A?

MR. BIRKOVITZ: No objection, sir.

PRESIDENT: Then the court understands there is no objection on the part of the prosecution to those indicated Defense exhibits?

MR. BERKOWITZ: That's right.

PRESIDENT: The court will receive Defense Exhibits 21, 21-A, 22, 22-A, 23 and 23-A in evidence and give those exhibits such weight as the court sees fit.

(The documents heretofore marked Defense Exhibits No's. 21, 21-A, 22, 22-A, 23 and 23-A for identification were received in evidence as Defense Exhibits 21, 21-A, 22, 22-A, 23 and 23-A, and are attached hereto and made a part of the record.)

MR. McKAY: At this time the defense requests permission of the court to read the English translation, Defense Exhibit 20-A, which is the English translation of Defense Exhibit 20 in open court.

PRESIDENT: Now, Mr. McKay, the court directs that each member of the court be furnished with a copy of Defense Exhibits 20-A, 21-A, 22-A, and 23-A, and for that to be accomplished at the first opportunity.

MR. McKAY: Yes, sir.

PRESIDENT: Proceed.

(Whereupon Mr. McKay read Defense Exhibit No. 20-A as follows:

"Translation of Sworn Statement of Moriz Franz Schueller

Before me, Joseph Kirschbaum, US Civ., being authorized to administer oaths, personally appeared Moriz Franz Schueller who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

I, architect Moriz Franz Schueller, born 14 December 1891, Austrian citizen, living in Vienna I, Kantgasse 3, was a political prisoner in the concentration camp of Flossenburg (Bavarian Upper Palatinate) from 11 January 1943 to 26 December 1944. During my time in Flossenburg

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I worked in the quarry halls for a short time, then in the construction office, and finally in the halls of "detail 2004".

WEILBACH Georg, who was foreman and block-eldest in my time, was square-built and made the impression of being good-natured in spite of his unhandsome appearance. Once, on a Sunday in the winter of 1944, I myself worked in his detail including about 150 prisoners at clearing away snow. During that work, which by order of the camp management was to be done in most severe cold, he did not control the prisoners at all and did not beat, abuse, torment, or drive to work any prisoner in my presence. I was extremely astonished at this behavior of Karl WEILBACH being contrary to that of other capos. By the passivity he showed towards that detail he could surely have got into trouble with the camp management.

This declaration was written by me on 2 pages, in my own handwriting, in Vienna I, Kantgasse 3, Austria, on 15 July 1946, at 1730 hours, voluntarily and without compulsion. I swear by God, the Almighty, that I said nothing but the pure truth, did not keep anything secret nor added anything.

/s/ Moriz Franz SCHUELLER

Subscribed and sworn to before me at Vienna, Austria, this 15th day of July, 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer

I, Heinz BUCHHOLZ, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Moriz Franz SCHUELLER given at Vienna, Austria, on the 15th day of July 1946, made to the best of my ability.

/s/ Heinz BUCHHOLZ
Translator, War Crimes Group

Subscribed and sworn to before me at Dachau, Germany, this 25th day of July 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer

(Whereupon Defense Exhibit No. 20-A was read in the German language to the court and the accused by the interpreter.)

MR. McKAY: At this time the defense requests permission of the court to read Defense Exhibit 21-A which is the English

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translation of Defense Exhibit 21.

PRESIDENT: Proceed.

(Thereupon Mr. McKay read Defense Exhibit No. 21-A as follows:

"TRANSLATION OF SWORN STATEMENT OF MORIZ FRANZ SCHUELLER

"Before me, Joseph KIRSCHBAUM, US Civ., being authorized to administer oaths, personally appeared Moriz Franz SCHUELLER who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

"I, architect Moriz Franz SCHUELLER, born 14 December 1891, Austrian citizen, living in Vienna I, Kantgasse 3, was a political prisoner in the concentration camp of Flossenburg (Bavarian Upper Palatinate) from 11 Jan 1943 to 26 Dec 1944. During my time in Flossenburg I worked in the quarry halls for a short time, then in the construction office, and finally in the halls of 'detail 2004'.

"About one year before my release I got acquainted with the camp-eldest, Karl MATHOI, who made a most imposing appearance and attracted my attention to his tall sport figure. Karl MATHOI treated me personally humanely from the day when he became camp-eldest up to the day when I was released. I did not see or hear, either, that he behaved incorrectly in any way towards other prisoners.

"Karl MATHOI offered me the post of a block-clerk and a foreman twice during my time of detention to facilitate my situation, but I refused from my personal attitude.

"Although I knew that it was part of the duties of a camp-eldest to perform executions on prisoners, Karl MATHOI in his position as camp-eldest did not continue that custom any longer. In a conversation between me and Karl MATHOI which took place on the roll call place of CC. Flossenburg in the end of 1943 or the beginning of 1944 he told me spontaneously that on no account he would lend himself to such an action. I was pleased with his attitude in this matter very much since I knew that such a refusal could lead to very prejudicial consequences for him.

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"This declaration was written by me on 2 pages, in my own handwriting, in Vienna I, Kantgasse 3, Austria, on 15 July 1946, at 1700 hours, voluntarily and without compulsion. I swear by God, the Almighty, that I said nothing but the pure truth, did not keep anything secret nor added anything.

/s/ Moriz Franz SCHUELLER

"Subscribed and sworn to before me at Vienna, Austria, this 15th day of July, 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer

"I, Heinz BUCCHOLZ, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Moriz Franz SCHUELLER given at Vienna, Austria, on the 15th day of July 1946, made to the best of my ability.

/s/ Heinz BUCCHOLZ
Translator, War Crimes Group

"Subscribed and sworn to before me at Dachau, Germany, this 25th day of July 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer")

(Whereupon Defense Exhibit No. 21-A was read in the German language to the court and the accused by the interpreter.)

MR. BERKOWITZ: I ask the reporter to mark this Prosecution's Exhibit 72 and 72-A.

(The documents referred to were marked Prosecution's Exhibits No's. 72 and 72-A for identification.)

MR. BERKOWITZ: If it please the court, the prosecution was able to contact the man Schueller who made the two statements just read by defense counsel and obtained a statement from him and asks leave to introduce in evidence Prosecution's Exhibits No's. 72 and 72-A, a sworn translation thereof, into evidence as cross-examination of Mr. Schueller.

MR. McKAY: No objection.

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PRESIDENT: The court will receive Prosecution's Exhibits 72 and 72-A in evidence and give them such weight as the court sees fit.

(The documents heretofore marked Prosecution's Exhibits No's. 72 and 72-A for identification were received in evidence as Prosecution's Exhibits No's. 72 and 72-A and are attached hereto and made a part of the record.)

MR. BERKOWITZ: Permission is requested to read the translation, No. 72-A.

PRESIDENT: Proceed.

(Whereupon Mr. Berkowits read Prosecution's Exhibit No. 72-A as follows:

"TRANSLATION OF SWORN STATEMENT OF MORIZ FRANZ SCHUELLER

"Before me, Harry BERKOWITZ, US Civilian, being authorized to administer oaths, personally appeared Moriz Franz Schueller who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

"I am the very same Moriz Franz SCHUELLER who testified against Karl MATHOI and Georg WEILBACH on 15 July, 1946. During my confinement in the concentration camp of Flossenburg, I personally had only a 3 hours dealings with WEILBACH. I can give no other information about his activity in Flossenburg.

"Karl MATHOI was known for his participation in beating prisoners.

"This statement has been written down by me on 1 page in my own handwriting at Vienna, Austria, on 23 September 1946 at 16.10 hours, voluntarily and without compulsion. I swear by God the Almighty that I shall tell nothing but the pure truth and that I shall not conceal nor add anything.

/s/ Moriz Franz Schueller

"Subscribed and sworn to before me this 23rd day of September 1946 at Vienna, Austria.

/s/ Harry Berkowits
Asst. T.J.A.

"I, Karl THOAT, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Moriz Franz SCHUELLER, given at

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Vienna, Austria, on the 23rd day of September 1946, made to the best of my ability.

/s/ Karl Thoet
Translator
War Crimes Group
Judge Advocate Section

"Subscribed and sworn to before me at Dachau, Germany, this 11th day of October 1946.

/s/ Harry Berkowitz
Asst. T.J.A.")

(Thereupon Prosecution's Exhibit No. 72-A was read in the German language to the court and the accused by the interpreter.)

PRESIDENT: Mr. Berkowitz, the court directs that each member of the court be furnished with a copy of Prosecution's Exhibit No. 72-A.

MR. BERKOWITZ: That will be done, sir.

MR. McKAY: At this time the defense requests permission of the court to read Defense Exhibit 22-A which is the English translation of Defense Exhibit No. 22.

PRESIDENT: Proceed.

(Whereupon Mr. McKay read Defense Exhibit No. 22-A as follows:

"TRANSLATION OF FROM STATEMENT OF KARL DRAGAN

"Before me, Joseph KIESCHBAUM, US Civ., being authorized to administer oaths, personally appeared Karl Dragan who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

I, Karl DRAGAN, born at Pula on 22 Feb 1910, nationality uncleared at present, residing in Vienna, IIIrd district, Steingasse 5/8, was interned as a political prisoner in the Flossenburg Concentration Camp from 2 Aug 1943 until about the end of April 1945. During my detention in the Flossenburg Concentration Camp I was quartered in block 5 for the most time. Within this time I got to know Karl MATHOI as block-

eldest.

"Karl MATHOI is about 1.78 m high; he has dark-brown hair, curled, and he had a well trained muscular body.

"It was a custom in the Flossenburg Camp that those prisoners who had been condemned to death by hanging were hanged by the then camp eldest. After KARL MATHOI took over the position as camp eldest these executions were no longer carried through by the camp eldest but by other men.

"Immediately after Karl MATHOI's becoming camp eldest two Russians and one Pole were condemned to death by hanging on account of their attempt to escape. It was striking to me that this execution was not carried through by the new camp eldest. After the execution I discussed this incident with Edi BAUER, Franz SCHUELLER, Baron COLLARD, and some other ones, all of them inmates of the Flossenburg Camp. Then it was known that the then camp eldest Karl MATHOI had refused to carry out the executions. I learned this from the talks with the aforementioned comrades (camp inmates).

"This declaration was written by me on 2 pages, in my own handwriting, in Vienna, IIIrd district, Steingasse 5/8, Austria, on 13 July 1946, at 1500 hours, voluntarily and without compulsion. I swear by God, the Almighty, that I said nothing but the pure truth, did not keep anything secret nor added anything.

/s/ DRAGAN, Karl

"Subscribed and sworn to before me at Vienna, Austria, this 13th day of July 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer

"I, Ludwig KREUDER, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Karl DRAGAN given at Vienna, Austria, on the 13th day of July, 1946, made to the best of my ability.

/s/ Ludwig KREUDER
Translator, War Crimes Group

"Subscribed and sworn to before me at Dachau, Germany, this 25th day of July, 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer")

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(Thereupon Defense Exhibit No. 22-A was read in the German language to the court and the accused by the interpreter.)

MR. BERKOWITZ: I ask the reporter to mark this document as Prosecution's Exhibit No. 73 and the translation thereof as No. 73-A.

(The documents referred to were marked Prosecution's Exhibits No's. 73 and 73-A for identification.)

MR. BERKOWITZ: If it please the court, the prosecution was able to contact Karl Dragan, the man who made the statement which has just been read, and obtained from him another statement under cross-examination. Permission is asked at this time to introduce this statement as Prosecution's Exhibit No. 73 and 73-A, sworn translation thereof.

MR. McKAY: No objection.

PRESIDENT: Prosecution's Exhibits No's. 73 and 73-A will be received by the court in evidence and given such weight as the court sees fit.

(The documents heretofore marked Prosecution's Exhibits No's. 73 and 73-A for identification were received in evidence as Prosecution's Exhibits No's. 73 and 73-A and are attached hereto and made a part of the record.)

MR. McKAY: Let the record show that the accused Penz and Pinter have returned to the dock.

MR. BERKOWITZ: Permission is requested for me to read Prosecution's Exhibit No. 73-A which is the sworn English translation of 73.

PRESIDENT: Proceed.

(Whereupon Mr. Berkowitz read Prosecution's Exhibit No. 73-A

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as follows:

"TRANSLATION OF SWORN STATEMENT OF KARL DRAGAN

"Before me, Harry BERKOWITZ, US Civilian, being authorized to administer oaths, personally appeared DRAGAN Karl, who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

"I am the very same Karl DRAGAN who testified against Karl MATHOI on 13 July 1946.

"I observed almost every day, i.e. saw with my own eyes Karl MATHOI severely beat and mistreat prisoners for the least reasons. Karl MATHOI then became Capo in the dispensary. There, too, I saw Karl MATHOI chase prisoners to work with clubs who were sick and tried to get help there. Many a one remained lying on the ground after having received the very first blow. Those people were then carried away, and I don't know what finally happened to them.

"This statement has been written down by me on one page in my own handwriting at Vienna, Austria, on 23 September 1946 at 1600 hours voluntarily and without compulsion.

"I swear by God the Almighty that I shall tell nothing but the pure truth and that I shall not conceal nor add anything.

/s/ DRAGAN Karl

"Sworn and subscribed to before me, at Vienna, Austria, this 23rd day of September 1946.

/s/ Harry BERKOWITZ
Asst. TJA

"I, Karl THORT, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Karl DRAGAN, given at Vienna, Austria, on the 23rd day of September 1946, made to the best of my ability.

/s/ Karl THORT
Translator
War Crimes Group
Judge Advocate Section

"Subscribed and sworn to before me at Dachau, Germany, this 11th day of October 1946.

/s/ Harry BERKOWITZ
Asst. TJA ")

(Whereupon Prosecution's Exhibit No. 73-A was read in the German language to the court and the accused by the interpreter.)

MR. McKAY: At this time the defense requests permission of the court to read Defense Exhibit 23-A which is the English translation of Defense Exhibit 23.

PRESIDENT: Proceed.

(Whereupon Mr. McKay read Defense Exhibit No. 23-A as follows:

"TRANSLATION OF SWORN STATEMENT OF DR. FRANZ STRAFELLA

"Before me, Joseph Kirschbaum, US Civ., being authorized to administer oaths, personally appeared Dr. Franz Strafella who, being by me first duly sworn, made and subscribed the following statement in his own handwriting:

"I, Dr. Franz STRAFELLA, born on 3 March 1891 at Pettau, roman catholic, living at Graz-Andritz, 20 Ursprungweg, Austrian citizen, was as political prisoner an internee of the Flossenburg C.C. from 27-9-44 till 29-10-44. My prisoner's number was 121.685.

"During my stay at Flossenburg, I was quartered partly in block 21, partly in block 24. Owing to a decree of the camp SS, certain persons, among them I, myself, were not allowed to work, which meant a heavy burden.

"On the second day of my staying at Flossenburg, that was on 28-9-44, I made the acquaintance of the then infirmary capo Karl MATHOI, who had prisoner's number 1, he had a red triangle, was of rather tall figure and dark-haired.

"MATHOI Karl was first prejudiced against me for the reason that he imagined me to be an adversary of the working-classes because of my former higher positions in Austria's public life. But when some of my comrades like OBLAK, Dr. GOLOUCH, BRAUN and other fellow-prisoners informed him that in previous prisons I had taken care of my comrades in a special comrade-like manner, he changed his attitude towards me spontaneously.

"On the next day (29-9-44) during the roll call he shook hands with me in public and demonstratively and told me, he would wish us to become friends. MATHOI has, no doubt, exposed himself by acting so, as I belonged to that small group of so-called 'action prisoners', with

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the designation 'Gitter' (lettice) who were persecuted in a special way after July 20, 1944.

"MATHOI hereby differed from the behavior of other C.C. Capos in a way really worthy of appreciation.

"During my above mentioned stay I, myself, never saw MATHOI Karl mistreat or somehow torment any prisoners.

"In the contrary I can certify that MATHOI Karl did not only render services to me, but on my request also repeatedly to fellow-prisoners; he was Capo in the infirmary and could bestow benefits on so many persons.

"In the beginning of November 1944 I was quartered in block 24. At that time there were - closely crowded - about 800 prisoners. Among those there was a group of 13 Bulgarian academics who had studied at the University of Graz. One of these 13, by the name of WATSCHEFF, a medical student or already a doctor of medicine, fell ill and his comrades diagnosed suspision of diphtheria. He had 40-41 degrees of fever. The then block eldest of block 24 whose name is no longer familiar to me, disregarding our urging, refused the transfer of WATSCHEFF to the infirmary. On the contrary WATSCHEFF had to participate in the roll call every day in the morning and in the evening in all weathers. I still remember exactly how WATSCHEFF with his face deep-red with fever and his throat thickly swollen, was carried out and in by his comrades. That lasted for 2 or 3 days.

"The whole block got alarmed about that, as not only the life of a comrade was at stake, but the health of all 800 was endangered.

"So I applied to MATHOI, describing him this situation. MATHOI without delay declared himself ready to come personally to fetch WATSCHEFF and after a very short time he really came and transported WATSCHEFF to the hospital. Later on I heard from the other Bulgarians that MATHOI Karl had taken care very well of WATSCHEFF.

"I neither saw nor came to know that MATHOI Karl took part in executions in any way.

"In the beginning of October 1944 I had a rather long conversation with MATHOI Karl in his room in the infirmary. During this conversation MATHOI Karl full of hatred expressed his detestation and loathing to the national socialistic methods and especially to the concentration camps towards me.

"This declaration was written by me on four pages,

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in my own handwriting, in Graz-Andritz, Ursprungweg 20, Austria, on 21 July 1946 at 1530 hours, voluntarily and without compulsion. I swear my God, the Almighty, that I said nothing but the pure truth, did not keep anything secret nor added anything.

/s/ Dr. Franz STRAFELLA.

"Subscribed and sworn to before me at Graz-Andritz, Austria, this 21st day of July 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer.

"I, Ernst BLOCH, being first duly sworn, state that the foregoing is a true and correct translation of the sworn statement of Dr. Franz Strafella, given at Graz-Andritz, Austria, on the 21st day of July 1946, made to the best of my ability.

/s/ Ernst BLOCH
Translator, War Crimes Group

"Subscribed and sworn to before me at Dachau, Germany, this 30th day of July 1946.

/s/ Joseph KIRSCHBAUM
Investigating Officer. ")

(Whereupon Defense Exhibit 23-A was read in the German language to the court and the accused by the interpreter.)

MR. BENKOWITZ: If it please the court, the prosecution was unable to contact Strafella in Vienna and no kind of statement has been obtained up to the present time. However, I move the court to strike from the statement all references to the treatment of Bulgarians, Bulgaria being one of the Axis Powers and the treatment by the accused of Bulgarians is irrelevant and incompetent.

PRESIDENT: Defense?

MR. McKAY: If it please the court, true, Bulgaria was one of the first nations overrun by the Axis but it is still considered a defeated nation and does not come within the

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present view of an Axis Power as defined by our government in the London Agreements under which these War Crimes Trials are being conducted.

MR. BERKOWITZ: I believe Mr. McKay is in error when he says that Bulgaria was overrun by the German Army. Such is not the case. Bulgaria was an ally of Germany in this war.

PRESIDENT: Court will take a short recess.

(Whereupon the court recessed at 1645 hours.)

(Whereupon the court reconvened at 1650 hours.)

PRESIDENT: Court will come to order. Dr. Wacker?

DR. WACKER: I would like to explain something in regard to this point and say that I have particular interest in this matter. I don't believe that the point in question is whether or not the party in question is a citizen of Bulgaria or a member of the Axis Powers at all. Whenever an accused has done anything good toward anybody, it doesn't matter who, then this should fall in his favor and back up his good reputation. For example, I will prove that one of my accused treated German Jews especially well and, therefore, the circumstances around that will have to be taken into account and go to his favor. I believe there is some confusion here because if a person has committed a crime of some kind against the members of the Axis that cannot be brought against them here, but on the other hand, if they committed good actions against members of the Axis that can be brought for their favor. I am particularly interested that no such decision be made now which would eliminate bringing in favorable circumstances under

which German Jews were well treated.

MR. BERKOWITZ: I'd like to state for the benefit of Dr. Hacker that I believe German Jews were stateless persons and as such come within the purview of the charge.

DR. HACKER: Then I have no more objection if the court sanctions this and says that all Jews are without a state but still I think that Jews are to be classified as German citizens.

PRESIDENT: Anything further, Mr. Berkowitz?

MR. BERKOWITZ: Nothing further.

PRESIDENT: Court will be closed.

(Whereupon court was closed at 1655 hours.)

(Whereupon court was opened at 1700 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: Let the record show that all of the personnel of the court are present, all of the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Pinter who are absent on business of the prosecution, all of the defense are present with the exception of Colonel Wilson, and Mr. O'Connor who are absent on business of the accused, all of the accused with the exception of Olschewski, Buddensieg, Oswalt, Jakubith and Bisbusch who are ill and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave.

PRESIDENT: The motion to strike on the part of the assistant prosecutor, Mr. Berkowitz, is denied. Court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court at 1705 hours 14 October 1946 adjourned until 0900 hours 15 October 1946.)

CA/GI 13

Legal Form No. 8

Court

First Duplicate Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG
Case No. .....

Pages 5107 - 5183 Incl.

*~~Summary~~
*~~International Military Court~~
*General

Place DACHAU, GERMANY

Date 15 Oct. - 16 Oct. 1946
0900 - 1700 Hours

~~Members of Court~~

WITNESSES:

GUSTAV REUBEL
SIEGFRIED BERNHARDT
FRITZ MENACHER
RUDOLPH HANNAUER
JOSEF PINTER
WILLIAM ZETTEL
HANS MONSKA
MICHAEL GELHARDT

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
  - or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH FLICK, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 June 1946

15 October 1946 Page 5107
16 October 1946 0900 -1700 hours Pages 5108 - 5163 Incl

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
GUSTAV REUBEL	5108	5112			5114
SIEGFRIED BERNHARDT	5119	5120			
FRITZ MENACHER	5122				
RUDOLPH HANNAUER	5125	5128			5129
JOSEF PINTER	5130	5140	5143	5146	5144 5148
WILLIAM SENTEL	5150				5152
HANS MONSKA	5153			5157	5156
MICHAEL GELHARDT	5159	5174			

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-24	File (on behalf of Fahrnbauer)	5127	Not offered
D-25	Notice of penal action (behalf of Fahrnbauer)	5127	Not offered
D-26	Notice of court action (behalf of Fahrnbauer)	5127	Not offered
P-74	Gelhardt's statement	5174	

Camp Dachau, Germany
15 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0915 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all members of the court and all personnel of the prosecution are present; all personnel of the defense are present with the exception of Colonel Wilson, who is absent on business of the accused; all accused are present with the exception of Buddensieg, Olschewski, Oswald, Jaekubith, Lipinski, Riebusch, and Keller, who are sick and whose interests are being taken care of by counsel. If there are any spectators present in the court room who expect to be called as witnesses in this case, will they please leave the court room?

PRESIDENT: The court would like to see the senior prosecutor and the senior defense counsel.

(Whereupon a discussion between the court, the senior prosecuter, and the senior defense counsel, ensued.)

(Whereupon the court reconvened at 0920 hours.)

PRESIDENT: The court will come to order. Due to the fact that the court room is not in a satisfactory condition to hold court this morning because of lack of heat, the court will adjourn until nine o'clock tomorrow morning.

(Whereupon the court adjourned until 0900 hours, 16 October 1946.)

Camp Dachau, Germany
16 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court and the prosecution are present; all the personnel of the defense are present except Colonel Wilson, who is absent on business of the accused; all accused are present except Buddensieg, Olschewski, Oswalt, Jakubith, Lipinski, and Eisbusch, who are sick and whose interests are being taken care of by counsel. If there are any spectators present in the court room who expect to be called as witnesses, will they please leave the court room.

PRESIDENT: Defense, Mr. Hall.

MR. HALL: Call Gustav Reubel.

GUSTAV REUBEL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Gustav Reubel.

Q In what town do you live?

A Munich, Olsching.

Q What is your nationality?

A German.

Q What is your age?

A Forty-nine.

Q What is your civilian occupation?

A Gardener.

Q Were you ever at Camp Flossenburg?

A Yes.

Q When did you arrive at Flossenburg?

A In April, 1943.

Q How long were you there?

A Until the 1st of December, 1944.

Q What color triangle did you wear at Flossenburg?

A I had a green triangle.

Q You were a prisoner, is that correct?

A Yes.

Q Will you explain the circumstances under which you received the green triangle?

A In 1919 I was with the Young Communists Organisation and I took part in the revolution in 1919, setting up the provisionary government in Munich. I was arrested in 1923 and was condemned before the People's Court in Munich in 1923 to a sentence of six years in the penitentiary on the charges of plundering, manslaughter, and creating an organization. The People's Court decided that we weren't guilty of this because of wrong convictions. The People's Court treated us as ordinary criminals and I got my penitentiary sentence.

Q Did you remain in Germany for the full length of time after that?

A I was for two years in Roumania in emigration, 1934 to 1936.

Q Were you subsequently allowed your liberty all the time prior to being taken to the concentration camp?

A Before I got to the concentration camp I served in the front line as a medic around Saarbrucken. I was arrested on the

12th of October, by the Gestapo because of high treason to the country.

Q What evidence did the Gestapo confront you with?

PRESIDENT: Just a minute, please. He mentioned the 12th of October -- of what year?

MR. HALL: You mentioned the 12th of October -- what year was that?

THE WITNESS: 1939. I had to escape from Frankfurt on the Main River in 1934. I was in the leadership of the organization called the Red Help and I continued to work there illegally. That was an organization which was helping political prisoners and their dependents. I was interrogated in Bruenn in Czechoslovakia by the Czechoslovakian police from the Political Department. They wanted to arrest me because I continued to work illegally. Two of us were together then. At that time we had made statements regarding the SA and the SS.

QUESTIONS BY MR. HALL (Continued):

Q What statements did you make at that time regarding the SA and the SS?

A We said they were bandits and even before the year 1934, that is, in 1933-1932, they disturbed every public gatherings and they assassinated German Communists treacherously. I said they were bandits who burned and bandits who murdered.

Q While at Flossenburg did you know a man by the name of Keiling?

A Yes.

Q Will you look in the dock and see if you can identify him?

A Here (indicating) with the bandage on his head. He must be the one.

MR. HALL: Let the record show that the witness has identified No. 22 as Keiling.

QUESTIONS BY MR. HALL (Continued):

Q While at camp Flossenburg how often did you see Keiling?

A I learned to know Top Sergeant Keiling in 1942. As a camp gardener I got around everywhere inside the camp. I often worked in front of the barracks and came into contact with the SS people a great deal.

Q When was it you said you arrived at Flossenburg?

A In 1942.

PRESIDENT: Just a minute. He just stated he arrived in Flossenburg in 1942. A while back he said he arrived in 1943. I think you had better verify that date.

QUESTIONS BY MR. HALL (Continued):

Q Will you please state again to the court what month and year you arrived at Camp Flossenburg?

A In April, 1942.

PRESIDENT: That doesn't agree with the previous testimony.

QUESTIONS BY MR. HALL (Continued):

Q Where in Flossenburg did you see Keiling?

A I often saw him making his rounds, I saw him going to eat, or when he had to take over his duties. He also spoke to me.

Q What do you mean by "making his rounds"?

A Keiling had to check the guard towers.

Q Will you please describe the manner in which he treated prisoners from your personal observation?

A As long as I knew Top Sergeant Keiling I never saw that he ever mistreated or beat a prisoner. I also never heard that Keiling ever reported a prisoner. On the contrary, whenever there was anybody around that guard tower 3 in the gardening area who had for some reason taken some carrots for himself which he shouldn't have done, Keiling just would wave his hand and admonish him with the finger. He never shouted at any prisoner or did any prisoner any harm.

Q Are you familiar with the regulations concerning the privilege of the prisoners and the SS to speak to each other?

A Yes, they were known to me partly. Whenever you talked to an SS man you had to be very careful no higher authority caught you doing it.

Q You stated that when you were in Czechoslovakia you called the SS bandits and murderers, et cetera. What was Keiling, an SS man, a prisoner, or what?

A Keiling was with the SS. I learned to know various SS men who treated prisoners very humanely for years at a time and Keiling belongs to these.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination, Mr. Denson.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Was it Keiling's duty to inspect the guards around the towers of Flossenburg?

A The guards had to make reports, for instance, the guard in tower 3 had to report: "Guard in tower 3 reporting. All is in order." And Keiling had to make the rounds. He had to check and see everything was shipshape.

Q He did that throughout the towers around the camp, is that correct?

A Yes, he had to go all around inside the camp. Whether he had any connection with the outside of the camp, such as the quarry, I don't know.

Q These towers you have reference to, were they around the protective custody compound?

A We had wooden towers and stone towers and they went around the camp in a circle. They were just outside the wire fence.

Q It was Keiling's duty, was it not, to inspect the guards in all these towers?

A Yes, he took the reports off their hands.

Q And he gave them their orders, did he not?

A We prisoners could only go within thirty paces of the wire fence. If we went any nearer we would be shot at. What the guard shouted I don't know. I only heard the guard shout something when Keiling would walk by.

Q You told the court a moment ago that the guard said, "All is in order", did you not?

A I only heard that everything was in order but I didn't understand anything more.

Q You know nothing about Keiling's conduct on the evacuation transport that left Flossenburg on or about the 20th of April, 1945, do you?

A No, I wasn't in Flossenburg any more at that time. I was in Schlackenwerth near Karlsbad. I was a gardener there

in the SS clothes chamber.

Q Were you capo of the gardening detail in Flossenburg?

A No, I was just an ordinary gardener, I never was a capo.

Q You never had a position as capo at any time when you were a prisoner at Flossenburg?

A No, never. I was always just an ordinary gardener.

PROSECUTION: That's all, sir.

THE WITNESS: I could tell you about the gardening capos,there were three during my time, two Germans and a Pole.

PRESIDENT: Redirect?

MR. HALL: No redirect.

PRESIDENT: Questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Just when did you arrive at Flossenburg?

A I arrived in Flossenburg in April, 1942.

Q April, 1942?

A Yes, April, 1942. I can't tellyou the exact date any more, I don't remember.

PRESIDENT: Are there any further questions by any member of the court?

QUESTIONS BY COLONEL JACKSON:

Q When did you leave Flossenburg?

A The 1st of December, 1944, I went on a transport with two guards to Schlackenwerth. That was a side camp of Flossenburg.

Q When did you join this Young Communists Organization?

(Reubel-court)

A At the time I came from Roumania as a soldier in 1919.

PRESIDENT: Will you caution the witness just to answer the question.

QUESTIONS BY THE PRESIDENT:

Q When did you join the Young Communists party?

A In 1919.

PRESIDENT: Are there any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q In what year did the Gestapo arrest you?

A The 12th of October, 1939.

Q When did you first go to a concentration camp?

A In 1942. From October, 1939, until April, 1942 I was in the Investigation Prison of the People's Court where our statements were made. As the Chief Prosecutor waived proceedings -- cancelled them temporarily because the charges weren't valid, the investigation confinement was cut off and I ended up in a concentration camp.

Q Did you wear the green triangle because you were a political prisoner, then?

A In 1924 the People's Court had pronounced sentence over me. I was sent to the penitentiary because the conviction of activity was not freed from me and on the 19th of July, 1928, I was given amnesty. And at that time when I was released the word went around that the punishment would be taken out of the court records, but it wasn't taken out of the books, otherwise the Gestapo wouldn't have kept after me because of this punishment, although I hadn't done anything wrong.

(Reubel-court)

QUESTIONS BY THE PRESIDENT:

Q Are you referring to the six year sentence you received?

A Yes, I can't think of it any other way. Because of my previous sentence they probably said to themselves, "For that reason he already had a sentence."

Q How many times were you actually convicted?

A Altogether the first time I served in a penitentiary was six years.

Q Were you convicted just one time? Is that correct?

A I had a small previous conviction in my youth, but I don't like to talk about that. You can't really call that a previous conviction.

Q What was the nature of that previous conviction?

A Infidelity, unfaithfulness.

Q Did you receive a sentence at that time?

A That was in 1916 before I became a soldier. Yes, I got a punishment, nine months. But for that reason you can't call me a professional criminal.

Q Just what were the charges for plundering? You said something about plundering.

A In May, 1919, I was still in a war prisoners' camp, Buchheim, near Munich. There were thirty thousand Russians still there.

PRESIDENT: Never mind the details. Just tell briefly what you mean by plundering.

THE WITNESS: I took one hundred twenty Russians with me and took over the non-commissioned officers' school near Munich

at Fuerstenfeldenbrucken, then we took some horses and loaded up two wagons and rode back to Munich. Because we did that it was called plundering, and because I took one hundred and twenty Russians with me they said that was forming groups. And of course we fought with machine guns and because I shot a man that was called manslaughter. In 1924 the story blew up and I was arrested and the People's Court convicted me in 1924 and although I got a six year penitentiary sentence, all who took part in this, including myself, were acquitted.

QUESTIONS BY THE PRESIDENT (Continued):

Q What do you mean you were acquitted, and then received six years.

A I'll have to explain it like this: if I do something because I do it for near convictions, because I knew what I was doing I was convicted. But we revolutionists were freed because we did it out of near convictions, and instead of giving us imprisonment in a fortress, they gave us a lower punishment, a more base punishmen..

Q But you were convicted and given a six year sentance, is that correct?

A Yes, six years in a penitentiary.

Q Just when did that incident occur?

A On the first, second, third, fourth of May, 1919.

Q You mentioned that you were given amnesty in 1928. Were you referring to this particular sentence of six years?

A Yes, and that was political amnesty from Hindenburg.

QUESTIONS BY THE LAW MEMBER:

Q I don't understand this nine month sentance you got

for infidelity. Do you mean unfaithfulness to your wife?

A No, business infidelity.

Q What did you do?

A I sold something that didn't turn into money and in law they call that business infidelity.

Q In other words you mean theft?

A No, theft is something else again. If I sell something which someone puts into my custody they don't call that theft but business infidelity.

Q How much was involved in this business infidelity?

A I can't tell you any more exactly.

Q Can you approximate?

A At the most one hundred marks at that time.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect?

MR. HALL: No questions.

PRESIDENT: Recross?

PROSECUTION: No questions.

PRESIDENT: The court understands that the defense has finished with this particular witness.

MR. HALL: Yes, sir, that is correct. May the witness be excused so that he may return to his home?

PRESIDENT: Is there any objection on the part of the prosecution?

PROSECUTION: No objection, sir.

PRESIDENT: The court will grant that request. The witness is excused.

THE WITNESS: Good morning.

(Thereupon the witness was excused and left the court room.)

MR. HALL: Call Siegfried Bernhardt.

SIEGFRIED BERNHARDT, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Siegfried Bernhardt.

Q Are you the same Siegfried Bernhardt who has previously testified in this case?

A Yes.

Q While at Camp Flossenburg did you know a man by the name of Pinter?

A Yes.

Q Will you look over the dock and see if you can identify him?

A There (indicating).

MR. HALL: Let the record show that the witness has identified the accused, No. 26, as Pinter.

QUESTIONS BY MR. HALL (Continued):

Q Will you please describe the circumstances under which you became acquainted with Pinter?

A I learned to know Pinter as the leader of the dogs, the railroad station in the construction building there. He often came into our office and he came in there to warm himself.

Q Did you have any conversations with Pinter?

A Yes.

Q Will you please recall some of that conversation?

A I remember once that he asked me for some civilian

clothes, and he explained to me that he wanted them so he could escape from the SS. Besides that I had the impression that he spoke pretty bad about the SS and that he was drafted into the SS against his will.

Q When he was in your office what duty was he supposed to be performing, if you know?

A His duty was to go around the camp and around the construction building there and to make sure that no prisoner got away.

Q You know nothing about his conduct on the evacuation march from Camp Flossenburg, do you?

A No.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination, Mr. Denson.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q He carried out his duty to the extent that he didn't let prisoners get away, did he not?

A Whether he violated his duty or not I can't say. Nobody escapes from us in the railroad station.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Mr. Hall.

MR. HALL: No questions.

PRESIDENT: Are there any questions by any member of the court? Apparently not. The court understands that the defense has finished with this particular witness.

MR. HALL: Yes sir, and may the witness be excused to

return to his home.

PRESID NT: Any objection, Mr. Denson?

PROSECUTION: No objection, sir.

PRESIDENT: The court will grant that request. The witness is excused.

(Whereupon the witness was excused and left the court room.)

MR. HALL: If it please the court, the next witness has not yet arrived, and the accused, Pinter will now take the stand in his own behalf.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 0950 hours.)

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Camp Dachau, Germany
16 October 1946

MORNING SESSION

(Whereupon the court reconvened at 1040 hours.)

PRESIDENT: The court will come to order.

MR. DENSON: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Lt. Colonel Wilson who is absent on business of the accused; all the accused are present with the exception of Buddensieg, Oswalt, Olschewski, Jakubith and Lipinski, who are sick in hospital. The interests of the named accused are being taken care of by counsel.

If there are any spectators present who expect to be called as witnesses in this case, they will please leave the court room.

MR. HALL: Two additional witnesses have just arrived. It is virtually impossible to schedule the time of arrival of witnesses as desired by counsel and also in connection with the logical sequence of presenting evidence. Therefore, these two witnesses will be called out of order.

PRESIDENT: Under the circumstances, Mr. Hall, the court will approve the matter.

MR. HALL: Dr. Fritz Menacher.

DR. FRITZ MENACHER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Fritz Menacher.

Q In what town do you live?

A Munich.

Q What is your civilian occupation?

A I am a dentist.

Q Where have you maintained your home?

A In Munich.

Q Do you know a man by the name of Fahrnbauer?

A Yes.

Q Look over the dock and see if you can identify him?

A Yes, number 11.

MR. HALL: Let the record show the witness has correctly identified the accused Fahrnbauer as number 11.

Q Where did you become acquainted with Fahrnbauer?

A In Herschling.

Q How long have you known him?

A Fifteen to twenty years approximately.

Q Will you please describe the circumstances of that acquaintance?

A I have a country home in Herschling and for approximately twenty years he has mowed my hay there, from his small farm.

Q What is the population of Herschling?

A Approximately 1500 inhabitants.

Q Has that been more or less the population during the time you have known him?

A Yes.

Q When did you last see Fahrnbauer, prior to coming here?

A During the war.

Q Are you familiar with the general reputation of Fahrnbauer

in the community of Herrsching for telling the truth?

A Fahrnbauer has a good reputation. He was industrious and his family are Catholics and went to church regularly.

Q What is your religious preference?

A Catholic.

Q You are a doctor of what did you say?

A I am a dentist.

Q How much of the time during those twenty years did you spend in Herrsching itself?

A Almost every Saturday and Sunday.

Q You are not familiar in any way with Fahrnbauer's activities in camp Platthing, or since he has been in the Army, is that correct?

A That is right.

MR. HALL: You may cross-examine him.

PROSECUTION: No questions.

PRESIDENT: Questions by members of the court? Apparently there are none. Re-direct?

MR. HALL: No re-direct. Nothing further.

PRESIDENT: The court understands, Mr. Hall, that you have finished with this particular witness.

MR. HALL: Yes. He is a very busy man in Munich and I would appreciate the court's excusing him so that he may return to his business in Munich.

PROSECUTION: No objection.

PRESIDENT: The witness will be excused and may return to his business in Munich.

(Thereupon the witness was excused and withdrew from the court room.)

MR. HALL: Dr. Rudolph Hannauer.

DR. RUDOLPH HANNAUER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

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DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Hannauer, Rudolph.

Q In what town do you reside?

A In Herrsching, promenade and street 11.

Q What is your civilian occupation?

A Lawyer.

Q In what town do you practice your profession?

A In Munich.

Q Are you authorized to practice before military government courts?

A Yes.

Q Do you know a man by the name of Fahrnbauer?

A Yes; I know him.

Q Please look into the dock and identify him, if you can.

A No. 11.

MR. HALL: Let the record show the witness has correctly identified the accused Fahrnbauer as number 11.

Q How long have you known Fahrnbauer?

A Approximately since 1926.

Q Please describe the circumstances of your acquaintance with Fahrnbauer?

A In 1926, I moved to Herrsching with my family and got acquainted quite fast with Mr. Fahrnbauer. Mr. Fahrnbauer came to me in his own cases or other cases and quite often we had long discussions.

Q Are you familiar with his attitude concerning national socialism?

A Because of our conversations, I always had to recognize Mr. Fahrnbauer as an enemy of national socialism without any compromises.

Q Do you recall of any specific instances concerning his opposition to national socialism?

A His attitude toward national socialism and their orders was shown in an affair which took place in 1934 in the community of Herrsching.

Q Will you briefly describe that affair?

A At that time, the farmers in Herrsching were forbidden to send their milk directly to the people who wanted to buy it because of the enforced economy of the national socialists. A few farmers took steps against this order and the leader of those farmers was Fahrnbauer. He organized a resistance against the carrying out of these orders. And he sent some boys to town to collect signatures from the people to enable me to represent their interests. Fahrnbauer filed complaints partly on his own and partly through me to the highest authorities.

Q You are the attorney for this group, is that correct?

A Yes.

Q Were you a member of the party yourself?

A No.

Q Continue.

A Fahrnbauer got in bad with the local cadre and the party authorities because they thought they were resisting the carrying out of this order. Everything was undertaken by the public authorities to go against this. As a matter of fact, they sent to the police and the police were to search and take away the files. Fahrnbauer himself, nevertheless, maintained his position with his followmen, and disciplinary action was taken against him. He filed suit against that and I represented him. The trial didn't have any result; his suit didn't have any result. As far as I know, Fahrnbauer didn't care thereafter about the decrees either.

MR. HALL: I request this document be marked as Defense Exhibit number 24, for identification purposes.

(Thereupon the document was marked, for identification purposes as Defense Exhibit number 24.)

Q Dr. Hannauer, I show you defense exhibit 24, for identification, and ask you if you have ever seen that before?

A Yes; I know the file. Those are the original signatures which were collected by Fahrnbauer at that time, for the most part they were collected by Fahrnbauer's going from house to house and urging the people to resistance.

Q From whom did you receive that exhibit?

A Fahrnbauer at that time brought these documents to my house.

MR. HALL: I request that this document be marked as Defense Exhibit number 25, for identification purposes.

(Thereupon the document was marked Defense Exhibit No. 25, for identification.)

Q I now show you defense exhibit number 25 for identification and ask if you have ever seen that before?

A Yes; I now the document.

Q What is it?

A That is the notice of penal action taken against him and the punishment of 50 marks which he received because of his constant resistance against the public decrees.

MR. HALL: I request this document be marked Defense Exhibit No. 26, for identification.

(Thereupon the document was marked as Defense Exhibit No. 26, for identification.)

Q Now I show you Defense Exhibit 26 for identification and ask you if you have ever seen that before?

A I know this document too.

Q What is it?

A That is the notice given by the court that the court at that time rejected the suit filed by Fahrnbauer and some of his followers because of the penal action taken against him.

Q From where did you receive defense exhibits 25 and 26 for identification?

A I received them from Mr. Fahrnbauer because I was his representative.

Q Now, you have no knowledge concerning Fahrnbauer's activities as a member of the SS or Wehrmacht in this last war, is that correct?

A I cannot give any details. I only know, having been in the Wehrmacht myself that Fahrnbauer had been called to active duty and was gone to the last moment.

Q You know nothing of his activities in connection with the evacuation of Camp Plattling, is that correct?

A I can't say anything about that. I merely expressed my surprise to third persons upon my return from a prisoner of war camp, that Fahrnbauer had been, -- that I could not conceive of the idea that Fahrnbauer had been in the SS at the very last.

MR. HALL: Nothing further.

PRESIDENT: Cross, Mr. Denson.

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Do you know when he joined the SS, doctor?

A I have no knowledge about that. At that time I was concerned with the Wehrmacht in Italy. Towards the end of the war, connection dissolved b cause of the distance.

Q Did Fahrnbauer collect a fee for your services in this case which you represented all these petitioners?

A Steps were taken on both sides without any pay. I did not

receive anything, and as far as I know, Fahrnbauer did not take anything or receive anything.

Q Is the same true with respect to the suit filed, designated as defense exhibit 26, for identification?

A Yes.

Q Did you know anything of Fahrnbauer's activities as the command officer of this camp Flatthing?

A I cannot say anything about that, as I have mentioned before, I was surprised to hear about all these things and that he had been taken into the SS.

PROSECUTION: Nothing further.

PRESIDENT: Re-direct?

MR. HALL: No re-direct.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Doctor, what was your status with the Wehrmacht?

A Towards the very last, corporal.

PRESIDENT: Any further questions by members of the court? Apparently not. Re-direct?

MR. HALL: Nothing.

PRESIDENT: Re-cross?

PROSECUTION: Nothing further.

PRESIDENT: The court understands then, Mr. Hall, the defense is finished with this particular witness.

MR. HALL: Yes, sir.

PRESIDENT: Does the prosecution desire to interrogate this witness at any later time?

PROSECUTION: No, sir, he can go home.

PRESIDENT: The witness will be excused and will be permitted to return to his home.

(Whereupon the witness was excused and withdrew from the court room.)

MR. HALL: The defense calls as its next witness, the accused Pinter who will take the stand in his own behalf.

PRESIDENT: Pinter, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED PINTER: Yes.

PRESIDENT: Proceed, Mr. Hall.

JOSEF PINTER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Pinter, Josef.

Q What is your nationality?

A Yugoslav.

Q Where were you born?

A Mirovitica, Yugoslavia.

Q When were you born?

A October 21, 1924.

Q Briefly describe your education?

A I went through public school. I went from the high school, the gymnasium and concluded with the small examination.

Q What was your civilian education?

A Butcher and sausage maker.

Q Are you married?

A Yes.

Q Have you any children?

A Yes; two.

Q What are their ages?

A One is four years; and one two years old.

Q Were you ever a member of the national socialist party or any of its affiliated organizations?

A Waffen SS.

Q Where were you when you became a member of the Waffen SS?

A The 1st of July 1941, I was drafted in Bruenn, I was drafted to the infantry.

Q Where is Bruenn, what country?

A In Czechoslavia.

Q You explained that you were drafted, will you give us a little more detail on that?

A June 16, 1941, I received my mustering order and I saw in addition that I would have to report for mustering?

Q At the time you received that mustering order, where were you?

A At home.

Q In what country?

A In Mirowitica, Yugoslavia.

Q What government was running Yugoslavia at that time?

A Croatian government.

Q What was its connection with the German government?

A Croatia was an allied country of the national socialist Germany.

Q At the time you received this order, what was your age?

A A little over 16.

Q What happened after you got the order?

A On 24 June 1941, I was mustered and that very same day received my orders to report. On June 27, 1941, 36 men of my home town were taken in cars and transported to Bruenn. The 1st of July 1941, I was informed that I was assigned to the Third SS Death Head Infantry Reserve Battalion in Bruenn. I received my basic training in Bruenn and then was sent to the First SS Reserve Squadron, 1E, in Warsaw.

Q Continue, Pinter.

A At the beginning of April 1943, I was transferred from

Warsaw to Dachau to the butcher's company. In May 1943, I fell ill and was taken to the hospital. When I was discharged from the hospital, I was assigned as GVH.

Q What is GVH?

A Not capable of going to the front lines; capable of staying in front garrison.

Q When did you arrive at Flossenburg?

A The end of August 1943, I came to Flossenburg.

Q To what duty were you assigned in Flossenburg.

A In Flossenburg, I was dog leader.

Q Will you please explain your duties as dog leader?

A As a dog leader, I had the following duties: At six o'clock in the morning, I marched out of the camp with the prisoners to the work place. At the work place, I was about 10 to 20 metres behind the chain of guards and had to go after a prisoner in such a case, if a prisoner should escape, with a dog. While I was doing duty and while I was with work details, never a prisoner escaped. That is to say, with the details where I was. In the evening, I marched back with the prisoners to the camp. Or, if tools were needed, I would go with two or three prisoners to another detail, pick up the tools needed and brought them back to the detail in question where I was. Those are the duties I had as dog leader.

Q Now is it a normal duty for a guard in Germany to keep prisoners from escaping?

A Yes.

Q When did you leave camp Flossenburg?

A In the beginning of November 1943, I was transferred to the dog squadron in the KL, Buchenwald, -- KL means concentration camp. I remained there until the end of January 1944. Then I returned to Flossen-

burg. In Flossenburg, I did the same duty as I had done before.

Q How many dogs did you handle at one time?

A How do you mean that? In the whole squadron, or me personally?

Q You personally.

A Two dogs. One was sick and I turned it in and then I received the second one.

Q When did you finally leave Flossenburg?

A Monday, 15 January 1945, at 6:30 in the morning, I was taken into protective custody by order of Berger.

Q Please explain that instance.

A Sunday, 14 January, three others and I received orders to pick up and transport all Italian prisoners from the station and bring them to the camp. After the prisoners had been entered in the camp, I dressed and went on pass to the village. In the meantime, the following happened: Two prisoners went to Berger and reported that two watches had been taken away from them while on transport. The other three, namely, Kiss, Hamm, Penz, were taken into protective custody. In the morning between 6:30 and 7:15, I was arrested and taken into protective custody by the officer of the day, by orders of Major Berger. The 15th of January, I handed in my name to Major Berger and then was interrogated briefly. The 16th of January at 10:00 o'clock in the morning, we four were confronted with these two prisoners. The two prisoners pointed at Kiss and Hamm, but Hamm denied any kind of violation. Then I asked Major Berger if we could not be released because we were not connected in any way with this thing. Major Berger said, "I am sorry; I cannot let you go. Your case has been handed in to the SS police court. You two" -- meaning Penz and myself --, "have to wait until the trial by this court is over." Besides that, when Major Berger searched our lockers and the place where we lived, those three watches were found in Kiss' locker. On the 13th

of February 1945, I was questioned by a civilian official from Bamberg, but after that, I was not interrogated any more.

Q During this time, you were in the bunker, is that correct?

A Yes. I was in investigation custody.

Q About when were you released from the bunker?

A On the 16-17 April 1945, all SS prisoners were released from the bunker at 8:00 o'clock in the morning.

Q What happened then?

A When we were released, we were not transferred back to the dog squadron; but three of us were transferred to the SS guard battalion. When we were released, we received rifles, ammunition, underwear and camouflage suits. That very same day an alarm was sent out that the enemy was in sight, and the SS guard troops left the camp by companies. At 12:00 or 1:00 o'clock at night, the "all clear" was sounded and all troops marched back to the camp.

Q At that time, did you receive any information as to the proximity of the enemy troops?

A It was announced to us that enemy troops were near Teiden, or Reichlishberg, and that the point of resistance had been taken and they had turned towards Karlsbad, and because of that, the "all clear" was sounded. We left the camp that day, without prisoners, -- all the troops.

Q What happened after you got back from that little march?

A When I returned from this march, I went to the village every evening to see my relatives. In the same way, I went to the village the 19th of April and returned in the morning of the 20th at about 11:00 o'clock in the morning.

Q What did you learn upon your return?

A In the meantime, the following had happened in the camp. The camp commander, Lt. Colonel Koegel, called formation of troops at

10:00 o'clock.

Q You were not present at this formation, is that correct?

A No; I was in the village. I only returned about 11:00 o'clock, and that formation was at about 10:00 o'clock. The comrades told me that the commander had said the following: The camp will be evacuated to-day, escaping SS men or prisoners will be shot to death, without warning. No allied prisoner should fall into the hands of the enemy. That is, in general, all I heard. About 1:30, our company marched down to the block house and posted itself in two files. One single file to the left and one other file to the right. The prisoners marched in between, five abreast.

Q About how many prisoners were there, do you know?

A According to my assumption, approximately three thousand.

Q What date was this now?

A April 20th, -- at about 1:30 in the afternoon.

Q What happened then after you were all formed up there?

A As the prisoners marched off, the guards to the left and right of them alongside the prisoners, marched out of the camp. My mother was standing near the railroad station, -- there was a curb there, -- and I said "good bye" to my mother.

Q Did you have any other conversation with your mother?

A I told my mother to put some food, a civilian suit, and some straw in the barn and hide the key under a stone, because the possibility existed that I would return. I said "Good bye" to my mother. My mother said that I should not do anything wrong; that I should come back soon; and that she would wait in Flossenburg until I should return. That is all the conversation I had with my mother. I just said "Good bye" and then I went on.

Q When you left Flossenburg, what was supposed to be your ultimate destination?

A The destination was Dachau.

Q How many days, altogether, were you on this march?

A My comrade, Penz and I, stayed with the transport five days until the 24th, about 5:00 o'clock in the evening.

Q During the time that you were on the march, did anything unusual occur in which you were personally involved?

A On 23 April 1945, about 7:00 o'clock in the evening, the car of the adjutant drove past us.

Q Whom do you mean when you say the adjutant?

A The adjutant, 1st Lieutenant Baumgartner. This car drove past us and Penz and I and two other comrades were sitting on our field packs on the road. The car of the adjutant stopped in our immediate vicinity and the adjutant Baumgartner and a staff sergeant whom I don't know, went by us. When both of them were a few minutes away from us, they turned around and came towards us. 1st Lieutenant Baumgartner asked us what our job was. Our answer was: "escort guards, side guards". He said, "To-morrow you four will report to the SK" .

Q What do you mean "SK" ?

A Special detail. "All prisoners who remain behind are to be shot to death", he said, "do you understand me?" Our answer was "yes, sir". After the adjutant and the sergeant had left, we took our packs and went into the village to look for quarters overnight. We received night quarters in a farmer's barn. When we were in the barn, we talked about this and were determined not to carry out the order given by Baumgartner. The first one of us four to awaken, was to wake up the others, and then we would escape together. The next day, the 24th of April, at 6:30, Penz woke me up, and he said, "Come on, get dressed, the other two have taken off already". Both of us dressed quickly and went out in the street.

When we came out in the street, we saw the first prisoners forming the marching column. Since it was too late for our escape, we still maintained that we would not carry out the orders of Baumgartner, but took our old positions as side or escort guards. We filled in as side guards with the prisoners. Shortly after that, Baumgartner and the sergeant passed us. When he saw us, he came towards us and he started shouting like a wild man, " Where are the other two?" Since we did not give any answer, he kept on talking. "Don't you know what order I gave you yesterday?" He then threatened us with his pistol and said that if we would not carry out his orders, it was his right to shoot us immediately. He then turned towards the sergeant and said, "Take those two men and go to the rear with them".

Q Who was this sergeant?

A He is an unknown man to me; I never saw him before. When we went back, the column started to march. When we arrived in the back of the column, two men were there already. A Ukranian and a German SS man. As I could gather from the transport leader, those were two guards from the KL, concentration camp, Buchenwald. To the rear, the sergeant repeated the orders given by Baumgartner, the same as had been given before. He said, "Don't do any stalling, otherwise I am forced to carry out the order given by 1st Lieutenant Baumgartner."

Q What day was this, now, do you recall, approximately?

A When 1st Lieutenant Baumgartner had threatened us, the 24th, at about 8:00 o'clock in the morning.

Q What happened then?

A After having marched for two hours, a prisoner was lying in the road, under the side of the road. The sergeant pointed his hand at the man and said to me, "There is one". He told that to me at that moment, because I was nearest to him. I didn't have any other

choice but take the safety off my rifle and fire at the prisoner.

Q What happened after that?

A After that, I immediately went on. At about 11:30, the column took a rest. During this break, the sergeant came to us and said that he had received orders from Koegel and that prisoners were now to be shot through the heart. At about 12:00 o'clock, the column proceeded. Between 3:00 and 4:00 o'clock, I again fired at two prisoners that had remained on the ground in the road.

Q Continue.

A At about 5:00 o'clock, I talked to Fenz in Yugoslav language. We said we would not go through with it any more. We would pretend we had wounded feet so that we could remain back. About 6:00 o'clock, Fenz said to the sergeant that he had injured feet and whether he could change his sock right now. After he asked, I also asked. The sergeant gave us permission and said that we should sit down on the road immediately and change our socks. We sat down there and the column marched on. During that time, the sergeant turned back towards us a few times. When the marching column had gone 150 to 200 metres, we escaped into the woods. We marched through these woods and we reached a village after marching 3½ to 4 kilometres. We stayed in this village overnight, until the 25th of April, until about 10:00 o'clock. At about 10:00 o'clock, on the 25th of April, Fenz and I marched on. When we were marching, Sergeant Zettel passed by us with his bicycle.

Q When did you last see this Sergeant Zettel?

A How do you mean that?

Q I mean, have you seen him recently?

A Recently, I talked to him in the presence of my defense counsel.

Q Continue.

A When Sergeant Zettel passed by us, there was an air raid. It was shortly after the air raid. Then we went, partly on foot, partly by car, to Dachau. On the 28th of April at 3:00 o'clock in the afternoon, we arrived in Dachau. That same day, 50 men were sent away from Dachau to go into action. Pens and I volunteered with these 50 men. We were scared that this sergeant or else the 1st Lieutenant Baumgartner would see us in Dachau, and that is why we got away from Dachau as fast as possible. We marched in the direction of Allach. At first, our command officer told us that the Americans would be there in two to three hours, there wouldn't be any sense in marching and that everyone should go wherever they wanted to. Pens and I and a few comrades went in the direction of the Tyrol. May 1, 1945, at about 1930 hours, we turned ourselves in voluntarily to the Third American Army in Linzen.

Q You have mentioned shooting at these three people?

A Yes, by orders.

Q Approximately what distance did you fire your gun towards the victims?

A Seven to eight metres.

Q Who else was present on those occasions?

A He was always in our immediate vicinity, about five metres away.

Q What examination of the victims did you make after the shots were fired?

A None, after the shot, we proceeded.

Q What is the highest rank that you have held in the SS?

A Corporal.

Q When were you placed in confinement in connection with this case?

A On 1 May 1945, I was captured by the Third American Army,

and ever since, I have been in a camp.

Q What is your religious preference, Pinter?

A Roman Catholic.

Q What has been the nature of your attendance in church?

A I went to church in civilian life. While I was in the SS, that was not allowed for us to do.

MR. HALL: No further questions at this time.

PRESIDENT: Cross-examination, Mr. Denson.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Was Penz with you at the time you shot these prisoners?

A He was in my immediate vicinity. Nor was that question once again please?

INTERPRETER: There is some mixup in the words.

PROSECUTION: Repeat the question, interpreter.

(Whereupon the interpreter repeated the question.)

(Witness continuing to answer).

A Mr. prosecutor, I didn't use the word "shot to death" here. This word is the word they tried to pin on me. I have never used that yet.

Q How many shots did you put into the bodies of these prisoners?

A How do you mean that? To each individual one, or, in general?

Q In each one.

A I shot at three prisoners and one shot at each.

Q How many of those shots went into the bodies of those prisoners?

A When I fired at a prisoner, I fired one shot at him, whether I hit him or not, I do not know. I fired to carry out my

orders; but without wanting to do it.

Q You didn't see any of the prisoners you shot at get up again, after you shot at them, did you?

A After the shots, I went on immediately. I never watched the three prisoners.

Q At first, you shot them in the head and later on you shot them in the heart, didn't you?

A I only fired in a general direction. I held my rifle down. The shot went off. Whether I hit him or not, I don't know that.

Q You first received the order to shoot them in the body, or the head, which was it?

A Up to the 24th, at about 11:30, orders existed they were to be shot in the head, and from then on, into the body. But when I fired my three shots, I never aimed, - I just fired in that direction.

Q There wasn't any doubt in your own mind but what you killed them, was there?

A It wasn't my intention to kill the prisoners, but to carry out my order.

Q Well, your order was to kill the prisoner, wasn't it?

A To shoot to death prisoners who remained behind.

Q And your intention was to carry out that order, I believe you said, is that not correct?

A No. In one way no; and in one way, yes.

Q The sum total of the effect of your intention, was killing these prisoners, wasn't it?

A No. My intention was merely to carry out my order, and that was all. Otherwise, the same would have happened to me, without any question. I received this order. One time I refused it. Another time it was given to me under threats of a weapon, and I was forced

to do it.

Q And at that time you carried out the order, did you not?

A What order?

Q The order that you received.

A What does the prosecuter mean?

Q What order are we talking about?

A About the shootings.

PROSECUTION: I object to that translation, may it please the court.

INTERPRETER: The translation should be, "shootings to death".

PROSECUTION: Let the record show the answer of the witness should be: "About the shootings to death."

PROSECUTION: No further questions.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours.)

Camp Dachau, Germany
16 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours).

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business for the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jambith and Lipinski who are sick and whose interests are being taken care of by their respective counsel. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room.

PRESIDENT: Re-direct, Mr. Hall.

JOSEPH PINTER, an accused, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

RE-DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Where were you when you met this Sergeant Zettel of whom you have spoken?

A Near Straubing.

Q Where is the town of Straubing with reference to the town of Cham and Landshut?

A In the middle of the stretch between Cham and Landshut.

Q And where is the Danube River with reference to Straubing?

A The Danube River flows through Straubing. Straubing lies directly on the Danube.

MR. HALL: That is all, sir.

PRESIDENT: Re-cross?

PROSECUTION: No further questions.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Pinter, you have testified that during the time you were guarding prisoners with a dog that no prisoners escaped?

A Yes.

Q During that same period did any prisoner attempt to escape?

A When I was a prisoner in the work detail no prisoner ever attempted to make an escape, but during the time that I was in Flossenburg I heard about two cases.

Q Did you ever find it necessary to use that dog during the time that you were on guard duty?

A No.

Q Was your dog always under your immediate control during those times?

A The dog was always with me.

Q It never got away?

A No, the dog was on a leash.

THE PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL [illegible]:

Q You previously stated that on the 3rd May you and Fuss turned in to the Americans at Linden and you later testified that on the 1st May you were captured by the Americans and that you have been in the camp ever since, which is correct?

A On the 1st May at 7:30 in the evening, Fuss and I and several other comrades voluntarily turned ourselves in to the Americans, the Third Army.

Q Where was that?

A In Linden.

Q Well, was that just a mistake, that other statement, that you turned in at Linden on the 3rd May?

A I don't believe that I ever mentioned the 3rd May here.

(Pinter - court)

COLONEL SKERLVIG: No further questions.

QUESTIONS BY THE PRESIDENT:

Q Then the court understands Pinter that you never set that dog on any inmate?

A No, it was forbidden to do that and I never did it. I was only allowed to use the dog when a prisoner was actually escaping. In any other case we would have made ourselves punishable.

PRESIDENT: Any further questions by members of the court? Apparently not.

PRESIDENT: Do you desire to make any further statements to the court at the present time?

ACCUSED PINTER: Yes. I was forced into this S.K. this special detail by force and threats. I didn't say that any one of the three prisoners at whom I shot were shot to death by me. I merely shot at the prisoners in order to carry out my order. I never had any intention of killing a prisoner, and then I have something to say about this prosecution witness against me, Pinkus Maurits.

Pinkus Maurits said that the guards were at intervals from each other 20 to 30 meters apart. Pinkus Maurits testified the following: He said when the shootings took place he was 20 meters away from me and from Penz. It would have been impossible for him to have the same distance from me and from Penz at the same time if the guards were separated by differences of 20 to 30 meters.

Pinkus Maurits also testified the following: He said that when several prisoners jumped out of the column into a field in order to get potatoes, then they were shot at, but when he went out to get potatoes no one shot at him and, moreover, on the 23rd April when our column was marching through the fields there were no potatoes or any turnips in the field at all. That would be about all.

(Pinter - court)

PRESIDENT: Re-direct?

MR. HALL: Nothing further, sir.

PRESIDENT: Re-cross?

RE-CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Where was the man whom you say forced you to shoot at the prisoners?

A The order was given out by First Lieutenant Baumgartner for the first time in the evening of 23rd April and since we did not carry out the first order, we got the second order. I, Pens and several other comrades of mine were threatened with a pistol at that time and at that time First Lieutenant Baumgartner placed a sergeant next to us. He was unknown to me and he said 'you or you will have to shoot off at any prisoner as soon as it is necessary.'

DEFENSE COUNSEL: I hate to ask you this, but I would like to have that read, I didn't hear all of it.

(Whereupon the answer was read by the reporter).

QUESTIONS BY PROSECUTION:

Q Now where was this sergeant that Baumgartner placed who was present at the time Baumgartner gave this second order when you shot at the prisoners?

A When I shot at these prisoners this strange sergeant was in our immediate vicinity five to six meters away from us.

Q And that sergeant was there to see that you carried out the order to kill those prisoners who were unable to go ahead, is that correct?

A This sergeant was there as a guard for the two of us to make sure we did not escape and to make sure we carried out the order from First Lieutenant Baumgartner.

Q And that sergeant didn't say anything to you after you shot those prisoners?

INTERPRETER: Do you mean 'shot' or 'shot to kill'?

(Pinter - recross)

Q That sergeant didn't say anything to you after you shot at and hit those prisoners, did he?

A Hit them? I don't know whether I hit the prisoners or not.

Q All right. After you shot at the prisoners, did that sergeant say anything to you?

A When the sergeant saw the prisoners, he said 'let's get started, there is one lying over there, and then he went on.

Q And you shot the one which was lying over there?

INTERPRETER: 'Shot' or 'shot at'?

Q Shot at?

A I shot.

Q And the sergeant didn't come back and upbraid you, did he?

A The sergeant merely said 'there is one lying over there, let's go'. I took my rifle, shot at him and walked on.

Q Who was in command of that column at that time?

A An officer.

Q What was his name?

A I don't know. I never saw him. I only saw him once in the darkness during the march.

Q How long were you with that column?

A Until the afternoon of the 24th around 6 o'clock and then Pens and I escaped.

Q Did you at any time appeal to the commander of that column in order to be relieved from shooting at these prisoners?

A I never heard that the party in question ever gave these orders. I only got this order from First Lieutenant Baumgartner.

Q Was the commander of this column senior or junior to Baumgartner?

A Probably his junior.

Q Did you, after you left the column, later rejoin it and arrive at Dachau with the column?

(Pinter - recross)

A No, Penz and I went all the way to Dachau voluntarily on foot and partly by truck.

Q At any time after you left it the first time, did you rejoin it, is hat correct?

A Yes, that is right.

Q Did you follow the same path that the column took to Dachau?

A I believe that we followed the same road part of the time and the rest of the time we went different routes on foot and also by trucks.

Q When you got to Allach, you rejoined the rest of the column, did you not?

A Penz and I were with the SS in Dachau and there we voluntarily reported ourselves to go with the troops who were supposed to go to the front to see action. It was behind Allach that our commissioned officer said 'it doesn't pay to go on any more again together anywhere' and it was there Penz and I separated.

Q Isn't it a fact that you went with the SS down towards the Tyrol?

A Penz and I and several other comrades took off by ourselves behind Allach and we surrendered to the Americans in Linden.

Q Didn't you just say that you left Penz in Allach?

A Penz and I and several other comrades made ourselves independent and went in the direction of the Tyrol.

PROSECUTION: No further questions.

PRESIDENT: Re-direct?

MR. HALL: Nothing further, sir.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q What was the name of the sergeant who passed on th order of Baumgartner to you and Penz and who was present at the shooting?

A I have never seen this sergeant. It must have been one of the new sergeants who arrived when I was in the bunk.

(Pinter - court)

Q You don't know his name?

A No.

Q Have you ever seen him since that particular period?

A No, but if I would see him I would be able to recognise him.

Q Was he a member of the SS?

A There was a Ukrainian in the back of the column and this sergeant said to him --- the court will have to excuse the expression --- "you ass holes, you are from the SS and I am from the Air Force and you cannot shoot people and I can".

Q Who was it said that?

A The sergeant.

Q The court understands that this Ukrainian was a guard also, is that correct?

A The Ukrainian was a guard. As I said before this Ukrainian and this SS man who were unknown to me were from Buchenwald.

Q Do you know the name of that Ukrainian?

A Vladisloff, or something like that.

Q Have you ever seen him, that is, the Ukrainian since that incident?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTION BY COLONEL JACKSON:

Q What do you think would have happened to you had you refused to carry out the order given by First Lieutenant Baumgartner?

A I knew Baumgartner already in the camp. SS men as well as prisoners had a great deal of respect for Baumgartner. When he threatened us I knew that he was not joking and I knew that if we did not carry out the order he would have shot us to death.

QUESTIONS BY THE PRESIDENT:

Q What do you mean by "respect"?

(Pinter - court)

A Everybody was afraid of him. When he arrived everybody saw to it that he kept out of Baumgartner's way.

Q You mean by respect that everybody was afraid of him?

A Yes.

Q After you had once escaped and had left the column, why was it you continued to Dachau?

A We did not know exactly where we were. We were not oriented much. We did not know where the enemy troops were. We knew that behind us were the Russians and the Americans -- the Russians on one side and the Americans on the other but we knew the way to Dachau was still open and that is why we took it.

PRESIDENT: Any further questions by members of the court? Apparently not. Re-direct?

MR. HALL: Nothing, sir.

PROSECUTION: Nothing, sir.

PRESIDENT: The court understands Mr. Hall that the defense has finished with this particular witness?

MR. HALL: Yes, sir.

PRESIDENT: The witness is excused and will return to his place in the dock. The court will take a short recess in place.

(Whereupon the court recessed in place and reconvened at 14.15 hours).

PRESIDENT: The court will come to order.

WILHELM ZETTEL, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q What is your name?

A Wilhelm Zettel.

Q What is your age?

A 49.

Q What was your civilian occupation?

A Designer.

Q Designer of what?

A Prints for curtains.

Q You are presently a prisoner of the Americans, is that correct?

A Yes.

Q You have just been extradited from Czechoslovakia where you were held. Is that correct?

A Yes.

MR. HALL: Does the court care to advise this witness as to his rights?

PRESIDENT: What is his nationality?

MR. HALL: What is your nationality:

THE WITNESS: German.

PRESIDENT: The court will take this occasion at the present time to advise you of your rights. If you should be asked any question that might tend to incriminate you, you have the right to ask the court to refrain from answering that question. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: All right, proceed.

QUESTIONS BY MR. HALL:

Q Do you know a man by the name of Pinter?

A Yes.

Q Look in thedock and see if you can identify him?

A 36 (indicating).

MR. HALL: Let therecord show that the witness has identified the accused, No. 36, as Pinter.

Q Do you know a man by the name of Penz?

A Yes.

Q Look in the dock and see if you can recognize him?

A He is sitting next to Pinter.

MR. HALL: Let the record show that the witness has identified the accused No. 35 as Fenn.

Q When was the last time you saw Pinter and Fenn. What year?

A 1945.

Q What month?

A In April.

Q Approximately where did you see Pinter and Fenn.

A On the road from Ohrn to Landshut.

Q And what were they doing at that time?

A They were going in the same direction as I was on foot. I was driving down there.

Q Where were the various columns of prisoners at that moment?

A There weren't any more.

MR. HALL: You may cross examine.

MR. ESSEKOWITZ: No questions.

PRESIDENT: Any questions by members of the court?

QUESTIONS BY COLONEL ZACHRON:

Q You say they were going in the same direction that you were. What direction was that?

A Direction of Dachau.

Q On what day?

A I don't know that.

Q Were they with a transport?

A On the road?

Q Yes?

A We were all going to Dachau.

Q What was their job?

A I believe the one was a private in the SS or a corporal?

Q Were they on duty at the time you saw them?

(Kettel - court)

A Their duty had really ended already because there weren't any more prisoners there.

Q Did you have any conversation with them at that time?

A Yes. We said to each other 'howdy', 'how are you' or something like that. I don't remember exactly any more.

Q What was your status at that time?

A I was driving down the road on my bicycle. I didn't get off it.

Q What was your position at that particular time? What organization did you belong to?

A Sergeant of the SS.

Q Sergeant of what?

A With the SS Deathshead Storm Division.

Q When you saw Pinter and Penz, did you give them any orders at that time?

A No.

Q Did you accompany them to Dachau?

A No.

Q Did you give them any orders to report to Dachau?

A No.

Q Had you been on this evacuation march with Pinter and Penz?

A I don't understand.

(Whereupon the interpreter repeated the question).

A No, only on this one spot where I drove past them.

Q Did they tell you anything that had happened during the course of the evacuation march?

A No.

Q You say there were no more prisoners at that time. What had become of the prisoners?

A They stayed back in Cham. The Americans had opened fire on us and everybody was escaping.

Q What camp did you come from?

A From Flossenburg.

Q Were Penz and Winter with the same column that you were?

A I don't know, I don't think so.

Q What date did you leave Flossenburg?

A I believe the 20th April.

PRESIDENT: Who was in command of your column?

A Skirka.

PRESIDENT: Any further questions by members of the court? Apparently not. Re-direct?

MR. HALL: Nothing, sir.

PRESIDENT: Re-cross?

MR. BERKOWITZ: Nothing, sir.

PRESIDENT: The court understands that the defense has finished with this witness?

MR. HALL: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room.)

MR. HALL: May I have just one minute please?

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1430 hours).

PRESIDENT: The court will come to order.

MR. HALL: Call Hans Monska?.

HANS MONSKA, called as witness by the defense being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name:

A Monskm, Hans.

Q What is your age?

A 44 years old.

Q What is your civilian occupation?

A A City official.

Q When were you a City official?

A Starting in 1933 until I was called into the service.

Q You are presently a prisoner of the Americans, is that correct?

A Yes.

MR. HALL: Does the court care to advise this witness of his rights?

PRESIDENT: The court wishes to advise you at the present time that if you should be asked any questions which might incriminate you, you have the right to ask the court to refrain from answering that question. You fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed Mr. Hall.

QUESTIONS BY MR. HALL:

Q Were you a member of the National Socialist Party?

A Yes.

Q When did you become a member?

A 1927.

Q Do you know a man by the name of Gelhardt?

A Yes.

Q Look into the dock and identify him if you can?

A Yes, he is sitting here -- 13 (indicating)

MR. HALL: Let the record show that the witness has identified the accused, Gelhardt, No. 13.

QUESTIONS BY MR. HALL:

Q When did you become acquainted with Gelhardt?

A I knew Gelhardt since 1942.

Q When did you arrive at Flossenburg?

A I came to Flossenburg January 1942.

Q Calling your attention to the year 1943, what was your duty at Flossenburg?

A My rank was sergeant and I had to take care of the duties of a master sergeant Spiess.

Q What contact did you have with Gelhardt?

A I did not have any connections with Gelhardt. Gelhardt was a member of the dog division.

Q Did Gelhardt ever come under your command?

A Not directly.

Q Well, indirectly then?

A Indirectly, yes.

Q When indirectly?

A Since the time when the dog section was made a part of the company.

Q And approximately when did that occur?

A It could have been March, it could have been April. I cannot remember exactly.

Q What year?

A 1943.

Q What were Gelhardt's duties at that time?

A I cannot remember what he did since June when I got back to the company again. When I got back to the company again he was in charge of feeding the dogs in the dog section.

Q And when was it you got back to the company?

A In June 1943.

Q How long did he continue in that occupation?

A Until the end.

Q During the time that Gelhardt was thus indirectly in your company, what duties did he have in connection with guard duty at the stone quarry?

A I don't know anything about the stone quarry.

Q Did you know what duties Gelhardt had in connection with the stone quarry?

A No.

Q Where was this dog company located?

A The dog company was outside the camp about 200 to 300 meters away from the protective custody department. It was in a forest near an open terrain.

Q Where were the dogs fed?

A Up there where the dog company was. There was a building where the dogs were kept at night and in this building the food for the dogs was cooked and there the dogs were fed. Gelhardt had his house up there too. He livedup there.

MR. HALL: You may cross examine?

PRESIDENT: Cross examination?

MR. BERKOWITZ: No questions.

PRESIDENT: Questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q Did Gelhardt have any duties at all in the stone quarry?

A I don't know anything at all about the quarry.

Q You say that Gelhardt came under your jurisdiction. Where did Gelhardt spend the day?

A How he spent his day?

Q Yes, did he spend his days with the dogs or what?

A He was always with the dogs.

Q Did his work with the dogs occupy all of his time?

A Yes. When he was not feeding the dogs, when he was not cooking their food, he was responsible for nursing the sick dogs and washing them and brushing them up and as far as I know he was responsible for cleaning the dogs' kennels.

Q Was that job continuous from June 1943 until April 1945 which you said was the end?

A Yes.

LAW MEMBER: That is all.

(Mountain - court)

QUESTIONS BY THE PRESIDENT:

Q You mentioned that you were a City official. Where was that?

A In Markt, St. Kirchen, in Saxony.

Q You mentioned further that you were a sergeant. What organization did you belong to?

A Yes. In the guard battalion in Flossenburg.

Q What kind of a guard battalion was that?

A Their duty was to guard the prisoners.

Q I am not asking you about the duty. What organization was it?

A It was the guard battalion of Flossenburg.

Q Well, was it an SS organization or what?

A There weren't any SS there. There were Ukrainians there, people from the Navy, Russians, Slovakians, Croatians and the national army, everybody was there, all in one spot.

Q Were you a sergeant of the Wehrmacht, the Waffen SS, or the SS, or what?

A I was a sergeant with the Waffen SS.

Q Now did you ever observe Gelhardt while he was on guard duty with a dog?

A No.

Q You never observed him on any occasion?

A No, there were too many people. I could not see anything.

PRESIDENT: Any further questions by members of the court? Apparently not. Re-direct?

MR. HALL: Nothing further, sir.

PRESIDENT: Re-cross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You would not say that Gelhardt never had any guard duty, would you?

A If anything were known to me, I would tell you about it right away.

Q Then do I understand you correctly when you say you do not know to what extent his duties were?

A Yes I do.

Q What were they?

A As already mentioned, one of his duties consisted in cooking the dogs' food, he had to feed the dogs, he had to clean up the dogs.

PRESIDENT: Just a minute. It will not be necessary for the witness to go through all that minor detail again. If you desire to rephrase your question Mr. Berkowitz or ask another question, the court will consider it.

QUESTIONS BY MR. BERKOWITZ:

Q If Gelhardt did any additional duties, would you know about them?

A I believe so.

Q Are you positive?

A Yes.

Q Didn't you know that Gelhardt did have certain guard duties?

MR. HALL: I object to the question unless the prosecutor clarifies it from the standpoint of time. I have brought out the type of duty that Gelhardt performed from April, May, June, 1943 until the end. I request that the time element be noted in the question.

MR. BERKOWITZ: If it please the court, the witness has been indefinite. One time he says 'I never saw', another time he says 'I am positive'. I am trying to find out the limitation of his knowledge.

PRESIDENT: The objection of Mr. Hall is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Do you know what duties Gelhardt performed prior to June 1943?

(Monahn - recross)

A No, I don't know anything about Gelhardt's duties then.

Q Do you know each and every duty that Gelhardt performed between June 1943 and April 1945?

A As I already mentioned, all his activities consisted in taking care of the dogs. I don't know anything else.

MR. BERKOWITZ: No further questions.

PRESIDENT: Re-direct?

MR. HALL: Nothing further, sir.

PRESIDENT: Any further questions by membersof the court? Apparently not. The court understands that the defense has finished with this witness?

MR. HALL: We are finished, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the courtroom.)

MR. HALL: The defense calls as its next witness, the accused Gelhardt who desires to take the stand in his own behalf.

MR. BERKOWITZ: Will the court allow me a moment to get the file?

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1450 hours).

PRESIDENT: The court will come to order.

MICHAEL GELHARDT, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through the interpreter.

PRESIDENT: Gelhardt, the court understands that you desire to take the stand in your behalf, is that correct?

ACCUSED GELHARDT: Yes.

PRESIDENT: Proceed Mr. Hall.

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your full name?

A Michael Gelhardt.

Q What is your nationality?

A Earlier I was a German Pole, that is Polish nationality, and a German since 1940.

Q What is your age?

A 30 years old.

Q Where were you born?

A The town is Kreczeniewka Gremau.

Q What country is this town in?

A In Poland, in the Ukraine.

Q Please describe briefly your educations?

A Five classes in Polish and at the same time German studies.

Q For how many years were you in school altogether?

A Until I was 14 years old. Seven years long, and also Russian, I studied Russian.

Q Can you write?

A Yes, I can write, read and speak three languages besides that, Czech language and Roumanian language. I understand them fluently, not perfectly, but fluently.

Q What was your civilian occupation?

A I was a master miller, and also worked as an architect.

Q What do you mean by architect?

A Building man. I worked in a big mill in Lublin. The name of the mill is Krause.

Q Are you married?

A Yes.

Q Do you have any children?

A Yes, one.

Q What is the age?

A In November my child will be two years old.

Q What were your party affiliations, national socialist?

A Nothing at all.

Q You were in the SS, is that correct?

A Yes.

Q When did you get in to the SS?

A Before I answer that, I would like to give the court a short explanation.

Q How did you happen to get in to the SS?

A In 1939 in April. I was in Poland in an internment camp. This is the name of the camp, Brzesz Kartoski.

Q Continue?

A And the German troops freed us on the 16th or 17th September and we were sent back to Germany for recuperation. We were about 15,000 men. We went to a convalescent home, Schneidermuehl, and came from there to Waldeck near Kassel. On the 21st November 1939 I got an order to report to the mustering station of the army in Kassel and then I got an order on the 1st December 1939 to go to Arolsen which is near Kassel to go to some replacement SS troops there. There we received training until the end of March 1940.

Q Where did you go from there?

A After that we went to Aix la Chapelle or Aachen in France with the Third Infantry Regiment. I was with the same unit as Major Berger here.

Q When did you arrive at Flossenburg?

A I arrived in Flossenburg the end of October 1940 with the Third Company.

Q How long did you remain there?

A I remained there until April 1941.

Q What duties did you perform then?

A You mean the time I was there?

Q At Flossenburg from the time you first arrived until this date in 1941?

A Part of the time I spent as assistant block leader. I was supposed to be trained to take over the duties of block leader.

Q How long were you assistant block leader?

A Until April 1941.

Q What duties did you then perform?

A Then we were sent away to take courses with anti-aircraft batteries. The division to which we were supposed to go was in Buchenwald and we went for our training to Ordruf. That is where we got our training.

Q How long were you there?

A Until 10th August 1941.

Q Then where did you go?

A Then we were checked over and those who were fit for duty were sent to the front and the rest of them were sent back to their troop division. We came to Flossenburg.

Q When did you arrive in Flossenburg approximately?

A In August.

Q What year?

A 1941.

Q What duty were you assigned to at that time?

A I was assistant block leader in block 6. In block 6 where the accused Gieselman was clerk.

Q How long were you assistant block leader?

A Until Christmas 1941.

Q What duties were you assigned then?

A First I had my leave in January 1942, after Christmas, and then at the end of January I went back to Regensburg in order to take courses in fire fighting until February.

Q During the time that you were at Flossenburg when were you on duty in the stone quarry?

A 1941.

Q When in 1941?

A Several times in the spring, and then after I got back to Flossenburg I was there from August or September until Christmas but I was not there every day. Some days I would be released. I was just there some of the days.

Q You just said August or September until christmas. Of what year?

A 1941.

PRESIDENT: The court will take an half hour recess.

(Whereupon the court recessed at 14.55 hours.)

(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Denson and Mr. Pinter who are absent on business of the prosecution, all the personnel of the defense are present with the exception of Mr. O'Connor, Mr. McKay and Dr. Engelhorn, who are absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswald, Jakubith and Lipinski who are sick, and whose interests are being taken care of by their respective counsel, and Skierka who is conferring with his counsel.

If there are any spectators here who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of direct examination, Mr. Hall.

MICHAEL GELHARDT, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL (Continued):

Q Gelhardt, when was it that you performed this duty in the stone quarry?

A 1941.

Q Approximately what month?

A That was just about 8 days before Christmas. We had already started the Christmas holidays.

Q Describe briefly your various assignments in the year 1942.

A I came back from leave around the 15th of January 1942. At the end of January I went to Regensburg to the fire fighting

school. I stayed there until February, 1942 and came back to Flossenburg. Then I had some duty in the camp and worked with the fire fighters.

Q When was that?

A In February and March.

Q What assignment did you have after that?

A I was sent away to Schwabach by the command post in order to take courses in dog training. Schwabach was the tenth replacement division of the army. That was from April '42 until August '42. Then I came back from my training and they set up a dog section in Flossenburg. 2nd Lt. Teppner was director of this dog squadron and Buddensieg was the replacement director.

Q How long did you perform this work with the dogs?

A I stayed with it until the end.

Q What was your duty with the dogs?

A I had already gone through a cooking course for dogs and since I wasn't capable of doing work on the outside, I was made a cook for the dogs in the dog department until the end. At first the dog section was up in the forest and later on it was in another spot in the forest outside the camp.

Q The witness, Hejka, has testified that you committed an assault in the stone quarry in the fall of 1942, as a guard. What do you have to say about that?

A The prosecution witness, Hejka, he is lying. I had a mix-up with him once.

Q Describe this mix-up.

A In 1944, Hejka was SS cook in the kitchen. Several times I went to get the old leftover bread from the kitchen and there were two Poles, two prisoners that is, standing in the kitchen and

they already knew me. They had learned to know me in the camp. I had a box with bread in it; 6, 7, perhaps 10 pieces of broken, dried bread. The two Poles came to me and said "corporal, could we have some slices of bread?" The bread already belonged to me because I had gotten it myself out of the kitchen and I gave each of them a piece of it. Hajka then came out of the kitchen and said "You should be ashamed as an SS man to give them bread." And he said "It is none of your business to support prisoners like that." Then I scolded him and he went back in the kitchen and reported me to the sergeant there. As a Soldier, I didn't want to let him get away with that. I took a plate there and went and hit him on the head with it. The plate flew on the kitchen floor and broke into pieces and he reported me to the headquarters. I got a punishment of 7 week's probation--I couldn't leave the camp for 7 weeks. I said if I catch him doing that again, I would shoot him to death. That was the whole incident which I had with him.

Q He also testified concerning an assault in November or December, 1943--that you covered a prisoner with snow. What do you have to say about that?

A That is the greatest lie I ever heard. I would like to have some of the prisoners here who were in the quarry--I would like to have one of them step out here and say that they saw me in the quarry in '42, '43, or '44, whenever that was supposed to be.

Q Now I call your attention to the testimony of the witness, Giesecke, who said, among other things, that you mistreated prisoners and so forth. Had you ever had any trouble with Giesecke?

A Yes.

Q Please explain that.

A In 1941, Giesecke was in the block where Giesslman and other prisoners were. Giesecke was the one man in camp known as a spy for 1st Lt. Kunstler. I know several languages so I talked to the Poles in Polish, Russians in Russian and that was forbidden. I wasn't allowed to do that. Then it often happened that I would stay in the block with the prisoners when it rained and we would participate in card playing together. Giesecke had been 1st Lt. in the police in earlier times.

Q What kind of police?

A Outside the camp, with the protective custody police, and I myself didn't even know that he was there as a spy. Every once in a while I would be reported and the commandant of the camp would give me a very severe reprimand. The roll call leader, Schmatz betrayed to me that Giesecke was a spy and after that, I really gave

it to him in the mouth. That was the first time.

Q When was this first time?

A That was just after I got to block 6 in the summer time. I don't know whether it was before or after I had this training.

Q What year?

A '41. The second time took place in the quarry, in December of 1941.

Q Whereabouts in the stone quarry?

A In quarry 3, in the front.

Q Near what building?

A There is a shed there where they keep tools and next to that there was a latrine. Giesecke had to take over the duties of guard when the people marched out, so he sat in that little booth. Top Sgt. Gruber had a gardening outfit there in the quarry and in

the fall there were onions in this little house there in the gardening department--onions, carrots and cabbage turnips were there. I said to these Poles with whom we always fried potatoes that they should go and get a few onions. A Pole went over there to the place and took some onions and stuffed his pockets full of carrots and cabbage turnips. Giesecke caught the Pole when he was doing that and he gave him a few slaps on the ears and wanted to take him over to Top Sgt. Gruber. I had to interfere then because I was the one who had sent the Pole to get these onions. I went over to Giesecke and I said "You should let the Pole alone, let him run because they were my onions. If you are going to report the Pole then you will have to report me too because I was the one who sent him in the first place." He said "that is none of your business and that Top Sgt. Gruber had told him to take the matter in hand." He become fresh so I gave him a few slaps in the ear and from then on after that, he had to carry stones in the stone quarry and the Capo Weilbach picked another man for that job. He carried stones and that was his anger in regard to me, that was his hatred. Otherwise, there is nothing to it.

Q I call your attention to Prosecution Exhibit No. 58 which is the statement you gave to the American authorities. In this statement you describe an execution by a firing squad. Approximately when did that incident take place?

A This incident didn't take place such as Lt. Paul in Freising is trying to pin on me.

Q Just a moment, please. Answer my question; when did this incident take place?

A In September, 1941, this incident took place. I would like

to make an explanation now to explain how the prosecution can maintain that it took place in 1942, because I am sitting here in front of the court and I have to tell the truth. The 25th of May, 1945, I was brought to Flossenburg for identification. There were many others who were brought there for the same purpose. I wasn't the only one.

Q I am asking you when this incident took place and I don't want any further details at this time.

A This incident took place in September of 1941. That is when it took place, and here this witness comes—

Q —What was your duty on that particular day?

A I didn't have anything to do on that day and that afternoon I was free.

Q When was the first you learned about the performance of this duty?

A I found out about the execution of this sentence when we marched down there by the crematorium.

Q What were you doing just before you marched down by the crematorium?

A First we had to fall in.

Q What were you doing before you had to fall in?

A Before we fell in we had to stand still at attention, get ready and then 1st Lt. Baumgartner came.

Q What kind of a formation were you in when 1st Lt. Baumgartner came?

A We were standing there at attention, in line, with right dress, in three ranks.

Q How many of you were there?

A It could have been 36, there was quite a pile.

Q What happened when Lt. Baumgartner arrived?

A When he arrived he said "everybody get your rifle" and he told the non-commissioned officer that everyone should be equipped.

Q For what purpose were you to get your rifles?

A We didn't know that yet.

Q What happened then after Baumgartner left?

A We got our rifles and fell in. Then the non-commissioned officer told us to stand at attention and then Baumgartner came with the commandant and Fassbender.

Q What happened then?

A Then the commandant said to the non-commissioned officer, at that time it was 1st Sgt. Scherner, he said that he should lead us down there behind the crematorium.

Q So what happened after that?

A Then we marched over there.

Q Who had command of the column as it marched toward the crematorium?

A 1st Sgt. Scherner.

Q When you arrived in the vicinity of the crematorium, what did you see?

A There wasn't anything there yet. We didn't see anything.

Q What happened then?

A We marched over there and we had to fall in again. We stood at attention, got ready, and then Capt. Aumeier came.

Q What was he in camp?

A At that time he was leader of the protective custody

department and deputy commandant of the camp.

Q What happened then?

A He took charge of the detail.

Q Where were the prisoners?

A There wasn't any prisoner there.

Q What happened then?

A Capt. Aumeier had us get ready again, stand at attention, and then 1st. Lt. Kuenstler came, Fassbender came, and there were several other officers there, among them two doctors, Capt. Kader and 1st Lt. Praisel, and then Capt. Aumeier made a report to the commandant. Then the commandant came over and said we had been selected for the execution squad. It is impossible to refuse. That is an order from higher sources and this order will be carried out. He said he was authorized to shoot anyone to death in the presence of two officers. That was the order he told us about.

Q Where was the prisoners?

A There was no prisoner there.

Q What happened then?

A Then he split up the outfit into groups. Then Rassbender's interpreter came. I forgot what his name was. He was a sergeant but I don't know anything more about him, and then they brought down some prisoners, 5 men. Then they read the death sentence publicly.

Q Describe what you recall of that sentence as it was read.

A This is the way it reads: Leader of the SVU and Russian soldiers--they had attacked a German troops outfit in back of the firing lines. They had cut of their sexual organs and stuffed them in their mouths, cut open their stomachs and stuffed in their stomachs there hands, and they had been sentenced to death before a court.

(Schubert - Direct)

Q What court?

A I can't remember exactly whether it was Regensburg court or Nurnberg court.

Q During that explanation, where were the prisoners?

A When the death sentence was being read, they stood in front of us.

Q About how far from you?

A I don't know, perhaps as far from me as to the table up there (indicated).

Q How many meters?

A Perhaps 5 or 6 meters, but they were very close.

Q What happened after that sentence was read?

A They took 4 of them away then. They were put into a little room and 4 of them were set up and then Fassbender asked them which was customary, whether any one of them had a last wish. They said no.

Q Where was the firing squad at the time Fassbender asked that question?

A We were still standing over here on the left side. Fassbender here and up there the prisoners stood (indicated).

Q After that question was asked and answered, what happened then?

A They were asked then whether they wanted to have their eyes bandaged or whether they wanted to be shot with their eyes unbandaged. They said they didn't want a bandage and then they were set up in front of us.

Q How far from you?

A I can't tell you anymore exactly. It could have been 10 or 15 meters. It could have been 20 meters. It wasn't very far,

Just a small piece.

Q How many of you were in this firing squad?

A 12 men, 3 men for one prisoner.

Q After everybody was lined up, then what happened?

A Then Capt. Aumeier gave the command.

Q What command did he give?

A "Get ready for the execution".

Q Continue.

A He waited a little bit then he said "take aim, fire".

Q So you fired, did you?

A Then we fired.

Q What happened to the prisoners standing in front of you?

A They fell down.

Q Then what happened?

A Then probably the medics came and carried them away.

Q Did you participate in any other part of that execution?

A Noo that was the only execution I took part in.

Q Prior to firing your gun, did you make any inquiry as to whether or not this court had jurisdiction over the people who were to be executed?

A We weren't allowed to do that, we were soldiers, and when we were told to do something, we had to carry it out.

Q Did you make any inquiry as to whether or not these soldiers who were to be executed in fact committed those deeds?

A We couldn't do that. We didn't even know the people there. There were a lot of things that happened on the outside and many incidents of that nature had taken place on the Eastern front.

MR. HALL: You may cross examine.

(Gelhardt - Direct)

PRESIDENT: Proceed with the cross examination, Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

MR. BERKOWITZ: Reporter, will you mark this statement as Prosecution Exhibit No. 74 for identification?

(The document referred to was marked Prosecution Exhibit No. 74 for identification.)

Q Mr. Gelhardt, I show you a document marked Prosecution Exhibit No. 74 for identification and ask you if you recognize it.

A No, I never had that in my hands, but I can state where it came from.

Q Is this your signature?

A Yes, the signature is mine.

Q Now I ask you if this is also your signature?

A Also, that is a copy of what Lt. Paul did in Freising. It is just a copy of the other one.

Q Is this the original of your signature?

A Yes, that is my signature.

Q In both cases?

A Both are my signatures.

Q You can read, can't you?

A Yes, but that was written in English and not in German. Nothing was shown to me in German in Freising.

Q I ask you if this was written in German or in English?

A That was written down by that man at the time in Dachau. I knew about that. That is correct.

Q I ask you if this was written in English or German?

A That was copied by this man here from the Freissing man, here in Dachau, in German. I was present then. I should like to ask for the document made by Lt. Paul in Freissing.

Q Now you recognized your signature on the document which has been marked Prosecution Exhibit No. 74 for identification.

A Yes.

Q And your signature is on the sworn statement, that this writing was the truth which was subscribed by Capt. Ramsch at Freissing.

A Nothing was taken down from me in Freissing. There were 4 concentration camp prisoners there and I was tortured there for 5 days. I was stripped down and I was hanging on a pole for half an hour every day or twice a day until I finally signed this thing. I should like to make an explanation how it came about that this document is here. I don't have to lie about it. I can tell the full truth about it.

Q Did you state that you participated in 3 different executions of Russians and Poles in that document?

PRESIDENT: Hold up on that question. The court will give the accused on the stand an opportunity at this time to make any statement he sees fit as to the manner in which this statement was secured. He may do so right now.

ACCUSED GEILHARDT: On April 23, 1945, I was captured. I was taken prisoner in Kulmbach and I was in the prisoner of war camp there. I was treated very well there by the Americans. From there I was sent to the prisoner of war camp Auerbach near Grafenwoehr. We were also treated well there as soldiers. Those were front line soldiers there. Then on the 23 of April, this camp was

6 days during which I was in the bunker. One day I was taken before Lt. Paul. He said, "you criminal, you are a 1st lt." I said, "Lieutenant, I am not a first lieutenant, I am a corporal and that is correct. I have written my statement and also mentioned the execution of 1941 in there." Then he beat me. I can show you the marks on my body. Right after that, he strung me up on a pole. All of a sudden, 4 prisoners came whom I had never seen before any place, never. They made the statement that Mr. Berkowitz has, but it was in English and he gave it to me to sign. I said, "Lieutenant, I have already made a written statement which is precise and correct, and I will not sign this thing here because I can't read it. He said 'You are my victim, you can croak under my hands." I had to strip all the way except for my underdrawers and I was bound. All my hair was shaved off and that is the way I was thrown into the

(Gelhardt - Cross)

released because of danger of epidemics and everyone could go home including 83 men up to the rank of sergeant, and I went home. On April the 28th I was denounced and I was taken to Flensburg to the arrest building.

PRESIDENT: Just a minute, the court will give you an opportunity to make a statement later on, but what the court wants to find out right now is the conditions under which this statement was secured. The court is referring to Prosecution Exhibit No. 74. You have asked the court for an opportunity to make an explanation in regard to that matter, and the court will give you that opportunity right now.

ACCUSED GELHARDT: I was taken to Freising in June. Nothing was against me there. I was then questioned by Lt. Paul. I also made a written statement of 4 pages. That lasted for about

bunker. In the evening he came over with two negroes and he brought back the paper. "Now," he said, "You will sign this." I said, "Lieutenant, you can kill me, I won't sign it because I signed the one I had written." I was naked and bound and I couldn't do anything. Then he beat me and kicked me with his feet and his negroes did also. The negroes did not want to do it, but he ordered them to do so. Then I was lying on the ground in the corner. Then he sent one of the negroes for some water and he poured the water over me, and that is the way he left me till morning. About 10 o'clock in the morning he had me taken back again and I was beaten so severely that I have scars of this length on my back. He said "sign this thing here." I said, "Lieutenant, I can't." He beat me again, terrifically. I begged him to shoot me to death rather than torture me. He said, "if you sign it, you will be shot to death." I said I wouldn't sign it because its contents were something I didn't know about. I again received a portion of blows, and as my hands were bound behind me, they put a stick through my elbows. The stick was on a rope and I was strung up that way. Every few minutes, Lt. Paul came around with a long club, filled with rubber, and while I was hanging there, I received my beating. He still must have the picture because he took my picture while I was beaten and bloody. It is possible that he is using it as propaganda to show how the prisoners were treated, but I was an SS man. Then I was let free, but I couldn't stand on my legs. I had to look for support on the wall. I was bloody all over. Then I signed this thing and told them to shoot me to death.

PRESIDENT: Who is this Lt. Paul you are referring to?

ACCUSED GELHARDT: He is the American interrogating officer. I don't know whether he is American or not, but he had an American

uniform. He is a small man, slender and quite young yet. He is quite well known. There are accused here in the dock who know him, quite well.

PRESIDENT: Was it an American uniform?

ACCUSED GELHARDT: Yes, an American uniform, and a gold bar he had on his shoulder. That is all that concerns that.

PRESIDENT: How did he spell his name, do you know?

ACCUSED GELHARDT: I only know that he was called Lt. Paul. I heard that he was in Nuremberg at the present time, but I don't know if that is actually true. It would be good if the court could request him and these four concentration camp prisoners so that this written document could be made clear to the court, and he also should bring the pictures he took of me, as the best proof to the court.

PRESIDENT: What makes you think he was an American?

ACCUSED GELHARDT: Because he talked English.

PRESIDENT: Is that all?

ACCUSED GELHARDT: He also spoke German. If the court requests so, I can strip.

PRESIDENT: That won't be necessary. Now you mentioned something about some negroe soldiers. What was the nationality of those soldiers?

ACCUSED GELHARDT: They also had American uniforms on, but they were not bad. They got orders and had to do it.

PRESIDENT: You don't know whether those colored soldiers were Americans or not, do you?

ACCUSED GELHARDT: These were black negroes.

PRESIDENT: But you don't know whether they were Americans or not, do you?

ACCUSED GELHARDT: They spoke English and had American insignia, so I assumed they were Americans.

PRESIDENT: Are you satisfied that they spoke English?

ACCUSED GELHARDT: They spoke English. They talked English to Lt. Paul, but I don't understand the English language.

PRESIDENT: Mr. Prosecutor, can you clarify this situation as to the name and nationality of Lt. Paul?

MR. BERKOWITZ: No sir, all I have in the files is a statement sworn to before Captain Lloyd M. Rausch at Freising on the 28th of June, 1945, and the accused states that it is his signature on that and that statement is in German.

PRESIDENT: Do you also have in the files an English trans-

lation of the statement signed by this particular witness?

MR. BERKOWITZ: There is nothing of that nature in the file. Now on the 16th of January 1946 here in Dachau, the accused was questioned about it, and permitted to dictate a statement to Dr. Theet, one of the translators here.

PRESIDENT: The court does not want the contents of that.

MR. BERKOWITZ: That is exhibit No. 58, and that is in evidence. The only thing that this witness stated—

PRESIDENT: The court does not want any information of this nature.

MR. BERKOWITZ: I am stating this to the court, Sir, that no such information came to the prosecution until the present time, although the accused did make a statement about this statement of the 25th which is incorporated in exhibit 58 now in evidence. That is already in evidence and I would like to read from a statement.

PRESIDENT: What prosecution exhibit is that?

"that is all the exhibit shows as to what the witness said" rather than to have it all-inclusive, regarding the statement; the statement of the prosecution.

PRESIDENT: The court will take cognizance of that fact, Mr. Hall.

(Discussion off the record.)

MR. BERKOWITZ: There is no indication here in the statement of any abuse of the witness although he was given an opportunity to say so as shown by Prosecution Exhibit No. 58.

PRESIDENT: Do you have Lt. Paul's signature there?

MR. BERKOWITZ: The only name that appears on this statement other than the name of the accused, is the signature of Lloyd M. Ramsch, Captain, F.A., Investigating Officer, and the prosecution has never gotten any information from this accused or anybody else

MR. BERKOWITZ: That is prosecution exhibit No. 58-A, a translation.

PRESIDENT: All right, go ahead.

MR. BERKOWITZ: From this statement I quote as follows: "I made a statement on the 28th of June 1945 in which I stated that I personally took part in the execution of all thirty. That statement did not coincide with the facts which I gave to the person who wrote it on a typewriter. It was not read back to me nor did I read it when I signed it."

And that is all the information the accused gave the American authorities here in Dachau at the time he was questioned about that prior statement, and at the time he made this voluntary dictated statement here—

MR. HALL: I should like to state that that should state

about Lt. Paul. This is the first it has come to our attention.

MR. HALL: I call the court's attention to Prosecution Exhibit No. 49-A, for whatever purpose it may be worth.

PRESIDENT: Mr. Berkowitz, can you give the court any information about a 2nd Lieutenant Paul C. Guth?

MR. BERKOWITZ: Yes, Lt. Guth was an investigating officer of the War Crimes Division, as it may be called at that time. I think he got his appointment of 1st lieutenant. He was assistant prosecutor of the Dachau case and the Mauthausen case, but I don't think he was in Flossing at all. He was associated with Colonel Denson who knows much more about him. I knew him as a 2nd lieutenant but Colonel Denson knows more about him than I do.

PRESIDENT: Do you know whether or not he did any investigating as far as the Flossenburg case was concerned?

MR. BERKOWITZ: No, I don't believe so. We have a lot of pictures of him in the hall if the court would want to show them to the accused. You might ask the accused to describe Lt. Paul and see how closely it fits the description of this particular man.

PRESIDENT: As far as you know, Mr. Prosecutor, Lt. Paul Guth had nothing to do with the investigation of the Flossenburg trial.

MR. BERKOWITZ: He may have taken a couple of statements, but that is all. At that time commissioned officers were called in to attend the interrogation and put their names on statements.

(Discussion off the record.)

PRESIDENT: The court understands that your plan is to endeavor to put prosecution exhibit No. 74 into evidence before this court, is that correct?

MR. BERKOWITZ: Yes, to be considered by the court in connection with Prosecution Exhibit No. 58.

PRESIDENT: Any objection on the part of the defense?

MR. HALL: Yes, for one reason I object on the ground that as far as the evidence is concerned at the present time, I believe it has probative value and should be questioned seriously. Reason number two, Exhibit No. 58 in of itself acknowledges that that particular document did not correspond with the truth and therefore there is no inconsistant statement made from the stand which would warrant its introduction.

MR. BERKOWITZ: If it please the court, I did not intend to offer 74 at this particular moment; I intended offering it later as I went along with my cross examination and I haven't yet made that offer. I might state to the court I am offering it for the purpose of showing that the dates testified to in 74 referred to a period in 1942 and that the only thing changed by this witness in Exhibit No. 58 was the number of people involved and for that purpose I am going to introduce this statement.

PRESIDENT: The court would like to check Prosecution Exhibit No. 74 up for identification as to its authenticity only.

The court will be closed.

(Whereupon the court was closed at 1650 hours.)

(Whereupon the court was opened at 1725 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Mr. Minter who is absent on business of the prosecution, all the personnel of the

defense are present, all the accused are present with the exception of Buddenseig, Olschewski, Oswald, Jakubith and Lindaski who are sick, and whose interests are being taken care of by their respective counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The matter of Prosecution Exhibit No. 74 will be held in abeyance by the court.

The court will adjourn until 9 o'clock tomorrow morning.

(Whereupon the court adjourned at 1730 hours.)

Charge

CA/GI 13 gus

Legal Form No. 8

1 (73

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG
Case No. .....

Pages 5184 - 5264 Incl.

*[redacted]
*[redacted]
*General

Place DACHAU, GERMANY

Date 17 October 194 6
0900 - 1700 Hours

Members of Court

WITNESSES:

MICHAEL GELHARDT
MAJOR GEORGE ROBERTIE
ALBERT ROLLER

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

17 October 1946 0900 - 1700 hours Pages 5184 - 5264 incl.

TESTIMONY

WITNESSES	Direct	Cross	Redirect	Recross	Court
MICHAEL GELHARDT		5190			5187
		5194		5208	5203
					5209
MAJOR GEORGE ROBERTIE	5210		5219	5232	5215
			5226	5240	5222
			5227	5241	5227
			5230		5228
			5232		5235
ALBERT ROLLER	5243	5258			

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
Court-1	Photograph	5186	5189
Court-2	Photograph	5188	5189
Court-3	Photograph	5189	5189

Camp Dachau, Germany
17 October 1946

MORNING SESSION

(Whereupon the court was opened at 0925 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court that the record show that all the personnel of this court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, all the personnel of the defense are present, all the accused are present with the exception of Buddensieg, Case No. 9, Schmidt, Ja Obern, Siptits 1, and Eisdusch who are sick and whose interrogations are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses in this case they will please leave the courtroom.

PRESIDENT: The court at this time will go further into this matter of prosecution exhibit No. 74. Mr Berkowitz, during the time that you were carrying on interrogations insofar as the defending tribunal was concerned was there any individual by the name of Lt. Paul who handled any of the interrogations?

MR. BERKOWITZ: May it please the court there was no lieutenant connected with the prosecution of the Flossenburg case or the investigation of that case by the name of Lt. Paul. Some affidavits were taken by Lt. Paul Guth, and I may state for the benefit of the court that Lt. Guth was not commissioned as an officer in the United States Army at the time this statement represented by prosecution exhibit

74 was taken. I don't have the exact date of his commission, but it was the latter part of August or the beginning of September 1945.

PRESIDENT: Did Lt. Paul Guth carry on certain of the interrogations?

MR. BERKOWITZ: Lt. Guth interrogated one of the defendants in the Flossenburg case. He was present at other interrogations but took no part other than administering the oath. These interrogations took place at the beginning of the year 1946, and they took place here in Dachau.

PRESIDENT: In the case of what defendant did he actually handle the interrogations?

MR. BERKOWITZ: He handled part of the interrogation of Blomberg, No. 4.

PRESIDENT: The court understands Lt. Paul Guth was present at a number of interrogations that year.

MR. BERKOWITZ: Yes, sir. He was present at some interrogations merely for the purpose of administering the oath and took no part in any interrogations except that of defendant Blomberg other than to administer the oath.

PRESIDENT: Were you yourself present during interrogations in which Lt. Paul Guth administered the oath?

MR. BERKOWITZ: I can't say that I was present at every occasion when Lt. Guth administered the oath I was not present when he interrogated the defendant Blomberg.

PRESIDENT: Do you know what the status of Lt. Paul Guth was prior to the time he was commissioned?

MR. BERKOWITZ: Mr. Denson advises me that he was a

T5 at War Crimes as an interpreter.

PRESIDENT: Do you know whether or not he participated in any interrogations prior to the time he was commissioned?

MR. BERKOWITZ: I believe he did, Sir.

PRESIDENT: Do you know, Mr. Berkowitz, as to the actual date on which St. Paul Guth was commissioned.

MR. BERKOWITZ: The only information I have on that is from people who knew him here. Mr. Denson knew him, and possibly the Court might care to ask him.

PRESIDENT: Mr. Denson, can you tell the court the approximate date he was commissioned.

MR. DENSON: Sir, it was not before the latter part of August, and, if my memory served me correctly, it was either the latter part of August or the first part of September, 1945. He came in with a group of second lieutenants--one of them was Werner Kahn; another, Bert Diamond; another one was Jack Nowitz--and they were the last persons who were entitled to be commissioned under the authority of the theater commander. If the Court knows that date, when was the last time that they were allowed to give direct commissions to officers in the field, that would fix the date because we had actually pushed through by courier all of the forms on this chap Nowitz in order to get him commissioned, so that may fix the date in the court's mind.

PRESIDENT: The court would like to have the reporter mark this as court exhibit No. 1.

(Whereupon the reporter marked photograph referred to as EXHIBIT No. 1)

MICHAEL GELHARDT, an accused, resumed the stand and testified further through an interpreter as follows:

PRESIDENT: The witness will step up here with the interpreter and Colonel Wilson and Mr. Benson.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Gelhardt, I am going to hand you court exhibit No. 1. I wish you would take this, look it over carefully, and tell the court whether you can identify any of the individuals indicated in this picture. Take your time and look it over.

A Yes, Lt. Paul is here. This is he. He is a very young fellow.

PRESIDENT: For the purpose of the record, the witness has indicated the individual immediately behind the left shoulder of the man in the witness chair, indicated as 61, and to the immediate right of Lt. Col. Denson, as Lt. Paul.

Q Will you tell the court, Gelhardt, as to how you are able to recognize the individual indicated as Lt. Paul?

A Because of his black hair and his round, narrow face, and he is not big. He is rather slender built. He could be about 21 years old judging by his appearance.

Q When was the last time you saw this individual?

A I saw him for the last time when he was here in the bunker, but I didn't see him. I only heard his voice. I was locked up in a cell, but I recognized his voice.

Q What was the date of that?

A That was in January when the Dachau trials started. He was back there with a few witnesses, and I heard his voice.

Q Is that the same individual that you knew of as Lt. Paul?

A Judging by the picture it is the same one, and judging by the voice it was the same one who was at Freising.

Q Is that the same individual to whom you referred in your testimony yesterday as Lt. Paul?

A Yes.

PRESIDENT: The court will indicate with an X immediately above the head of the individual in the picture pointed out by the witness as Lt. Paul.

Q Yesterday, Gelhardt, you testified that Lt. Paul had used duress against you. The court would like to know just where that took place and the date.

A On the 12th of June I came to Freising and was brought to Lt. Paul at least 7 or 8 times in 1945.

Q The court understands that was in June 1945?

A In June and also in July of '45. I was in Freising up until the 18th of July '45.

PRESIDENT: Reporter, the court hands you this photograph here to be indicated as Court Exhibit No. 2.

(Whereupon the reporter marked photograph referred to as Court Exhibit No. 2)

Q Gelhardt, the court herewith hands you Court Exhibit No. 2. Look it over carefully and indicate to the court whether or not you can recognize anybody on this picture.

A Yes. There is Lt. Paul and Lt. Col. Denson. There is Lt. Paul.

PRESIDENT: For the purpose of the record the witness ha indicated the individual on the immediate right of Lt. Col. Denson

as Lt. Paul. The individual pointed out will be further identified by a cross placed immediately above his head. Proceed. Reporter, you will mark this particular picture as Court Exhibit No. 3

(Whereupon the reporter marked photograph referred to as Court Exhibit No. 3)

Q Gelhardt, the court hands you Court Exhibit No. 3. Look it over carefully and indicate to the court whether or not you can identify any of the individuals in this picture.

A Yes, Lt. Paul there and Lt. Col. Denson.

PRESIDENT: For the purpose of the record the witness has indicated the individual on the immediate right of Lt. Col. Denson as Lt. Paul. The individual indicated will be further identified by a cross placed immediately above his head. All right, resume the witness stand. The court will take a short recess in place.

(Whereupon the court took a recess in place.)

PRESIDENT: The court will come to order. The court will receive court Exhibits 1, 2, and 3 in evidence. Mr. Prosecutor, the court directs that Lt. Paul C. Guth be called before this court as a witness. If he is not available in the ET at the present time, that steps be taken effective this date to produce him as a witness before the court in the Flossenburg case. Continuation of cross examination, Mr. Berkowits. The court will take a short recess in place.

(Whereupon the court took a recess in place)

PRESIDENT: The court will come to order. Continuation

of cross examination of the witness.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Gelhardt, back in January '46, back here in Dachau, you dictated another statement, did you not?

A No.

Q Didn't you dictate a stat ment in my presence and in the presence of Major Robertie and Mr. Carl Thoet?

MR. MC KAY: Just a moment. I object until there be some knowledge or some questions asked determining whether or not this witness actually knows these persons by name.

MR. BERKOWITZ: If it please the court, that is for the witness to answer.

PRESIDENT: The objection is sustained. The court feels, Mr. Berkowitz, that you should lay more of a foundation.

DEFENSE: Let the record show that Kisbusch has returned to the dock.

Q I show you prosecution exhibit No. 58 and I indicate the signature at the bottom and ask you if that is your signature?

A Yes.

Q I refer to Page 2 of that exhibit and call your attention to that signature and ask you if that is your signature?

A Yes, that is also my signature. This is a copy of the record from Freising.

Q Mr. Gelhardt, were you interrogated here in Dachau?

A Yes, by Mr. Berkowitz.

Q Who was present?

A At that time Mr. Berkowitz was alone, and Mr. Berkowitz wanted to talk me into saying I had shot 30 prisoners to death with a shotgun, but I wouldn't admit it, and that was all I was interrogated about.

Q Was anybody else present at that interrogation?

A When it was copied there was some one there.

Q Wasn't there a German stenographer present the time of the interrogation?

A A civilian was there.

Q And did he take down what you stated?

A What is in this record is what is in the record in Freising.

Q Will you answer my question, please.

A What was in the record in Freising--that is what was copied.

Q Were you called in for the second time to read the statement after it had been reduced to writing?

A No, I signed it and went away. If I had said anything else I would have gotten my hide full, so I didn't say anything.

Q Didn't you read the statement before you signed it?

A I already knew what was in it. It consisted of the same record and statement that was made in Freising.

Q How did you know it consisted of the same thing?

A It was read to me in English.

Q And then you signed it after it was read to you?

A I couldn't do anything about it. I was supposed to sign there the fact that I had shot these men with the hunting gun. Mr. Berkowitz wanted to use blackmail on me. I decided

(Gelhardt-Cross)

it was best to wait until I could explain the matter before the court. I would have been beaten again if I had said anything different.

Q Was this statement in German or in English?

A It was written in German.

Q Did you read it?

A No.

Q Did you dictate it?

A I gave the statement as it was made before. I couldn't do anything different.

Q Did you read it?

A No.

Q Didn't you swear to it?

DR. MARX: I believe there is an error. Mr. Berkowitz said, "Did you swear to it?" and it was translated, I believe, "Did you swear to it?" I don't believe that the two words are the same in the German language.

Q Did you swear to this statement?

A I never made an oath, then or now.

Q Was there an American officer present to administer the oath?

A No.

Q Were you given the opportunity to read this statement?

A What should I read? Mr. Berkowitz had already interrogated me and read it to me in English.

Q Wasn't there a German stenographer present?

A Yes, he took it down.

Q Didn't he take your statement?

A What kind of a statement?

Q Your own statement made by you?

(Gelhardt-Cross)

A No, I didn't give any statement.

Q Did you say anything at that time?

A Whatever I said was to deny what was said about me. I never shot any prisoners with a hunting gun.

Q What did you say you shot them with?

A I said I had taken part in this execution and that we had used rifles. That is all I said.

Q Did you tell when that took place?

A I also said it, but it wasn't recognized, and that was assumed as correct, what I said in Freising.

Q As a matter of fact, don't you know there is a variance in dates between the statement made in Freising and the statement made in Dachau?

MR. O'CONNOR: You are bringing this statement in that the court has indicated it was not entertaining at the present time, prosecution exhibit No. 74.

PRESIDENT: That is correct. Exhibit No. 74 is being held in abeyance.

MR. BERKOWITZ: I am not offering it in evidence. I am asking the witness whether he knows the dates mentioned in that statement and the dates mentioned in this statement are different. I am asking the witness concerning the dates contained in both statements, whether he knows or whether he does not know that they are different.

PRESIDENT: The court has no objection to that, but the evidence contained in prosecution exhibit No. 74 will not be placed before the court until the court has indicated that it will be received in evidence. Take half hour recess.

(Whereupon the court, at 1010 hours, was recessed.)

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(Whereupon the court reconvened at 1040 hours.)

PRESIDENT: Court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present, all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused, all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, and Lipinski who are sick in the hospital and whose interests are being taken care of by their respective counsel.

If there are any spectators present who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Continuation of cross examination. Mr. Berkowitz.

MICHAEL GELHARDT, an accused, resumed the stand in his own behalf and testified further through an interpreter as follows:

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ (CONTINUED):

MR. BERKOWITZ: Reporter, will you read the statements made just prior to recess?

(Whereupon the reporter repeated the statements.)

MR. HALL: I withdraw my objection.

PRESIDENT: Prosecution, proceed.

Q Now, Mr. Gelhardt, do you know that the dates on the two statements are not the same?

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A I don't know these two dates. I was interrogated in June, 1945. I had to put my signature on this document by being forced to do it and then the second time I was interrogated was in Dachau by Mr. Berkowits.

Q When you were interrogated by me, there was a German stenographer present, is that correct?

A Yes, and he wrote it down.

Q What did he write down?

A What is in the statement from Freising.

Q Didn't he write down what you told him to write down?

A I didn't tell him to write anything down. He wrote down what Mr. Berkowits read to him. I was influenced and I was under such pressure that I would have even signed my death warrant. I was finished. Mr. Berkowitz was trying to work it into this statement and have me sign it that I had shot 30 prisoners to death with a shot gun, and I believe Mr. Berkowits can remember my exact words. I said, "Mr. Berkowits, I will not sign that because that is out of the question." Those were my words.

Q You did sign what was a true statement?

A I signed the same thing under the same duress as in Freising.

Q What was the duress here in Dachau?

A I assumed that if this Polish Captain Stassek had not come in at that moment I would have certainly received some kicks in my stomach.

Q Answer my question. What was the pressure here

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in Dachau?

A I wasn't allowed to talk. Only what was contained in the statement. I was allowed to answer only yes or no.

Q Who was present at that time?

A There wasn't any body there.

Q What pressure was exerted when the German stenographer was present?

A There wasn't any pressure then. The German stenographer wrote what had already been written in Freising.

Q Didn't you see the statement that you signed?

A I didn't read it. I merely signed it.

Q Wasn't it read to you?

A Mr. Berkowitz read it to me himself, but he read the one that came from Freising in English and that was signed.

Q Did you understand English?

A He read it to me in German.

Q Did he read it to you in English or in German?

A German.

Q Were you asked to explain that?

A There wasn't any chance to explain anything. It was all the same to me.

Q Weren't you asked if the statement you made in Freising was correct?

A No.

Q Weren't you asked if you wanted to corroborate that statement or whether you wanted to make any changes in it?

A No.

Q Didn't you state that you wanted to make some

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changes in it?

A I wanted to make some changes in it but I wasn't allowed to do so.

Q Wasn't the German stenographer called so you could dictate the changes?

A I didn't dictate anything. The statement was read to me, a German copy of the English, and when I wanted to object and say that what was in there wasn't true, Mr. Berkowitz merely said that I had shot the 30 people with this hunting rifle, that is all.

Q Didn't you state in your statement to the stenographer that you hadn't shot 30, but you had shot 8?

A Yes, that is right, as it was explained yesterday. I wanted to tell about the eight in the year 1941, and Mr. Berkowitz forbade me to make the change and had me sign this document as it came from Freising.

Q As a matter of fact, weren't you given the opportunity to make a statement or clarify or change the statement you had made in Freising?

A No.

Q Well, you did change the statement, didn't you?

A I wanted to change the statement, but Mr. Berkowitz wouldn't allow me to do so.

Q Did Mr. Berkowitz prevent it?

A Mr. Berkowitz directed himself according to the statement that had been made in Freising, and not according to my statements that had been made here.

Q Will you answer my question please?

A I wasn't allowed to speak.

Q Weren't you encouraged to speak freely and say anything you wanted to?

A No.

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Q Now when the German stenographer was present, didn't you dictate and change the prior statement that you had made?

A I was allowed to dictate what was in there.

PRESIDENT: Mr. Berkowitz, the court feels that you are handling a lot of repetitious matter. Let's expedite this.

MR. BERKOWITZ: If it please the court, if the witness would answer my questions, it wouldn't be necessary to repeat them.

PRESIDENT: The court desires to allow you considerable latitude, but at the same time the court feels the matters are more or less of a repetitious nature.

QUESTIONS BY MR. BERKOWITZ (CONTINUED):

Q Didn't you in the statement that you made here in Dachau state the following, "I made a statement on the 28th day of June 1945—"

PRESIDENT: Just a minute, Mr. Berkowitz, the court would like to know just what statement you are quotin g from. Is that Prosecution Exhibit No. 58?

MR. BERKOWITZ: Yes.

Q Didn't you in the statement that you made here in Dachau state the following: "I made a statement on the 28th day of June, 1945, in which I stated that I personally took part in the execution of all thirty. That statement did not coincide with the facts which I gave to the person who wrote it on the typewriter." And then you went on to say, "I took part in the execution of eight Russian soldiers and stood by

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while the other 22 were shot." Is that correct?

A That is a big lie what you have there. I can explain to the court how that came about.

Q Will you answer my question please?

PRESIDENT: Just a minute, the court will give you an opportunity at a later period to make any statement you see fit, Gelhardt. At the present time, answer the questions of the prosecution. At the same time, the court will not insist on your answering any particular question, but that failure to answer may receive an unfavorable inference as far as the court is concerned. Do you understand what the court has said?

ACCUSED GELHARDT: Yes.

QUESTIONS BY MR. BERGOLTZ CONTINUED:

Q Didn't you in Prosecution Exhibit No. 58 also state "This statement was dictated by me to Mr. Karl Theot on the 16th day of January, 1946, voluntarily and without compulsion, because I cannot write except to sign my name. I swear by God, the Almighty that I have said only the pure truth without adding or withholding anything. I have read the foregoing. The same is a true transcript of my own statement."

A Yes, but something is missing in that. I signed this document under duress in Freising.

Q Well, this is the document which you signed in Dachau?

A Yes, but there is nothing there that says how the duress was put on me.

Q Don't you state in here that you are changing the statement you made in Freising?

A In this explanation I wanted to say how force, duress had been used on me.

Q Weren't you allowed to change that statement you made in Freising?

A No.

Q Didn't you change that statement here?

A I am talking about the one that wasmade here. I wasn't allowed to express myself freely. I just had to answer yes or no.

Q Well, as a matter of fact, you changed the date, the number of people, and the names of some of the men who participated in the execution, isn't that true?

A I wanted to change it and I wanted to change it to read as it has now been brought out in court, but I wasn't allowed to do it.

Q Now that you have thought it over, you have decided that you want to make—

MR. HALL: That is argumentative.

PRESIDENT: Objection sustained.

Q In this interrogation in Dachau, do you remember that there was an officer present who administered the oath to you.

A That isthe biggest lie that has ever appeared in the history of the world. There was nobody there except Mr. Berkowitz and this little civilian whom I would recognize if I could see him again. I am not a child. I am a soldier. I know what I am talking about and I won't let this be shoved in my shoes.

Q You never at any time appeared before an American officer to have an oath administered to you.

A No, never.

PRESIDENT: The court would like to know one thing at the present time, Mr. Berkowitz. Can you give this information as to who the American officer was?

MR. DENSON: We have the officer right here, sir. He just got back from the states the other day.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place.)

(Whereupon the court reconvened in place.)

MAJOR GEORGE ROBERTIE, was called by the prosecution for the purpose of determining whether or not the accused Gelhardt could identify him.

CROSS EXAMINATION(CONTINUED)

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Gelhardt, have you ever seen this gentleman who stands before you? Do you understand my question? Will you answer my question please? Have you ever seen this gentleman?

A I never saw him. I never was interrogated by this major.

Q Did you ever see this major?

A No.

MR. BERKOWITZ: If it please the court, let the record show the witness was confronted with Major George Robertie, whose name appears on Prosecution Exhibit No. 58. Thank you, Major. Will you please take a seat at this time.

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MR. HALL: If the court pleases, I will be calling the Major to the stand as a defense witness, and I therefore respectfully request that he be dismissed from the Courtroom.

PRESIDENT: The request of the defense counsel, Mr. Hall, is approved.

It will be necessary for you, Major Robertie, to leave the courtroom due to the fact that you will be called later as a defense witness.

Cross examination, proceed.

QUESTIONS BY MR. BERKOWITZ (CONTINUED):

Q Now, Mr. Gebhardt, have you ever seen the gentleman who stands before you?

A This was the one. That is right.

Q This is the man who was present at the time of your interrogation?

A Yes.

MR. BERKOWITZ: If it please the court, let the record show that the witness has been confronted with Mr. Karl Theot, whose name appears on Prosecution Exhibit No. 58. Thank you very much, Mr. Theot. You may be excused.

No further questions.

PRESIDENT: Redirect?

MR. HALL: No redirect.

PRESIDENT: Mr. Berkowitz, the court at the present time would like to see the original of Prosecution Exhibit No. 58A.

MR. BERKOWITZ: Yes, sir, here it is.

PRESIDENT: Questions by the Court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q This beating that you spoke of, I believe you said that took place in Freising in June of 1945. Is that correct?

A Yes.

Q Now you signed a statement did you not which is Prosecution Exhibit No. 58 for Mr. Berkowitz this year in January, 1946?

A Yes, I signed it.

Q Were you threatened if you didn't sign it?

A I would like to make the following explanation to the court in that respect. I was called to my interrogation and Mr. Berkowitz brought out this statement from Freising and read it to me in German and asked me whether it was correct. I said, "Mr. Berkowitz, the names that are in there are not right. They were never in Flossenburg." He said the only thing I had to do there was to answer his questions, nothing else. For example, Lt. Colonel Koegel's name is there. He was never in Flossenburg in '41 and '42 and there are many names there of people who were never in Flossenburg. I wasn't allowed to speak. I was already so intimidated from Freising that I said, "Okay, write it down, whatever you want." Then Mr. Berkowitz came and said he wanted to include in the statement the fact that I had shot these people with a hunting rifle, but I didn't admit that because it isn't true. I said, "Mr. Berkowitz, I took part in an execution, but the dates here are not correct." Then I got into an argument with him

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and I wasn't allowed to talk, and after he had read through this statement, he called in this small civilian. It is perfectly clear that if I had said anything different, I would have gotten some blows, some beatings. I was so intimidated that I merely said that what I originally stated was true with the one exception that it wasn't 30 men who had been shot but that it was 8, and that is certainly true. There were 8 and I thought to myself I couldn't do anything about it now. The best thing I can do is to wait for a chance to be placed before a court and then I can make an explanation of how this situation was, so that I can also call witnesses in my own behalf and justify myself. I don't deny this statement, but I do deny that this Major gave me an oath. I was never given an oath and this Major didn't give me one. No American officer gave me an oath at that time. It is possible that he was somewhere in the vicinity, but I don't know about it. I didn't see him. I only remember this Captain Stasnek.

Q Who was present when this statement was dictated?

A Mr. Berkowits.

Q Who wrote it down.

A This little civilian here.

Q Then I understand that you and the little civilian and Mr. Berkowits were present when the statement was dictated?

A Yes, Mr. Berkowits read the statement out loud and then I signed it just as it was.

Q Well, who dictated the statement?

A Mr. Berkowits read out loud what was already there in

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the record of the interrogation. I wasn't allowed to do anything to it and I signed exactly what he had read to me because at that moment it was all the same to me whether I was signing my death warrant or not.

Q Just answer my question. From what did he read when he read this statement to the man who took it down?

A Before this little civilian arrived, Mr. Berkowitz read this statement from Freising to me and he wanted to add to the statement the fact that I had shot 30 people with a hunting rifle and he asked many questions.

Q Do I understand that this is Mr. Berkowitz' statement or is this your statement?

A Here is the way it was. Mr. Berkowitz read to me the statement from Freising and here is the way my testimony was. I never had anything to do with any 30 Russians. I only had to do with 8 Russians in this execution in 1941, but Mr. Berkowitz wouldn't let me talk and since I saw that I couldn't do anything about it, I recognized the same thing that he had already read to me, and the only thing that I changed was that I was with 8 men and not with 30.

Q What made you think that Mr. Berkowitz would beat you? You said that you were afraid of Mr. Berkowitz?

A Yes, because he was also excited.

Q Did he threaten you in any manner?

A Not directly threaten, but I saw that I couldn't do anything because if I didn't agree with him, he would have beaten me.

Q Why do you think he would have beaten you?

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A Because I had been beaten up so badly in the last interrogation and that is the reason I didn't deny anything and why I agreed with the same statement that had already been made in Freising.

Q In talking about the 8 men who participated in shooting, will you state whether or not that was the original 8 men you talked about in this shooting in compliance with the orders that were read to the 8 men or was that another group?

A No, they are the same 8 men who were shot to death in the year 1941.

Q You are referring to that execution then that you were speaking about yesterday. Is that right?

A Yes.

PRESIDENT: Any further questions, members of the court? Apparently not.

Mr. Gelhardt, do you wish to make any further statements to the court before you are dismissed.

ACCUSED GELHARDT: I would like to make an explanation.

PRESIDENT: All right, proceed.

ACCUSED GELHARDT: This one explanation I am making now still refers to Freising. One of the witnesses I am going to talk about now is sitting up there in the dock, a fellow accused. He was in Freising. In July this thing was signed. He was beaten up badly. He was brought to Nattendorf near Deckendorf and the one who is sitting here in the dock also saw me there. I was there for one week. After that Lt. Paul

sent a small wagon , a jeep, to Mattendorf. I was loaded in this car and brought to Freising and there I spent the night. The next day I was brought to France by way of Paris to Romeiel and I met the accused Wodak. He didn't have any resemblance to a human being. He looked like an animal and the reason for this as I could imagine it, was Lt. Paul. He was being foxy and seeing to it that I didn't get into the hands of a higher American officer and so he sent me a few kilometers into France to the city of Romeiel. I stayed there until the end of September. The entire camp was evacuated and was sent to Moustach near Laurberg. I stayed there until the beginning of October, 1945, and from there I was brought here to Dachau. My cuts were still open. If the high court will allow it, I would like this witness here in the dock to testify about this Freising incident. He was also there. They beat me up so badly, I couldn't lie on my back. I couldn't lie on my stomach. My neck was twisted and pus would run down from me. I never saw a man who looked like that. He can testify to it, and under this forced treatment of the American officials I signed this statement here.

LAW MEMBER: Who beat you so badly?

ACCUSED GELHARDT: Lt. Paul with two negroes. He ordered them to do it.

PRESIDENT: Is this Lt. Paul the same individual that you identified on the three pictures that the court showed you this morning which are listed as Court Exhibits 1, 2, and 3?

ACCUSED GELHARDT: Yes, the same person.

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PRESIDENT: You are satisfied it is the same individual.

ACCUSED GELHARDT: Yes.

PRESIDENT: Do you have any other statement to make to the court at the present time?

ACCUSED GELHARDT: I do not have anything else to say.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. HALL: Nothing further.

PRESIDENT: Recross?

RE-CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q I again call your attention to Prosecution Exhibit No. 74 for identification, and ask you to look at it and I ask you whether the same Lt. Paul wrote this statement?

A That is the same Lt. Paul, and these four prisoners who I never saw before were in Freising. They were the ones who gave these facts. He wanted me to sign this statement and it cost me a lot of blood when I refused.

Q This is not in your own handwriting?

A Yes, that is right.

Q Did Lt. Paul write this?

A I don't know, that was already drawn up when I came in. I didn't write anything myself.

MR. BERKOWITZ: That is all.

PRESIDENT: Questions by members of the court? Apparently not. Redirect?

MR. HALL: Nothing, sir.

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DR. WACKER: I would like to remind the witness that yesterday the court said that they would later give him a chance to make an explanation about an incident that took place in the camp of Flossenburg, and I wonder whether the witness forgot about it or wanted to forgot about it.

PRESIDENT: The court feels that the accused has been given every opportunity to make any explanations or any other statement, but if he has any other explanation or statement to place before the court, the court will receive it.

ACCUSED GELHARDT: I could make the explanation to the court now.

PRESIDENT: If you desire to make any further explanation, Gelhardt, go ahead.

ACCUSED GELHARDT: On May 28th, 1945, I was put in the arrest in Flossenburg for recognition duty. There were many prisoners and Russians and Poles and people of various nationalities. They didn't do anything to me there because I didn't do anything to them. Even though they recognized me they didn't do anything to me. But many of these foreigners were beaten to death and hanged by the neck. A Polish prisoner beat a certain Zimmerman to death in my cell. That is all I saw.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Who wasthis Pole?

A That was an inmate of the concentration camp, but I don't know his name.

Q Do you know his number?

A He didn't have any prison number with him then.

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He was allowed civilian clothes.

Q What was the date of that incident?

A It could have been the 3rd or 4th of June.

Q You are referring to 1945?

A That was 1945, from the 3rd of May til the 6th or 7th of June when we left.

Q Do you have any further statements or explanations to make to the Court?

A No.

PRESIDENT: Redirect?

MR. HALL: No.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further.

PRESIDENT: Any further questions by members of the court? Apparently not.

The court understands, Mr. Hall, that the defense is finished with this particular witness for the time being.

MR. HALL: That is right, sir.

PRESIDENT: The witness will be excused and resume his position in the dock.

MR. HALL: If it please the court, in connection with this American officer, I desire to ask him a few questions. I will call him to testify as a defense witness.

MAJOR GEORGE ROBERTIE, a witness called by the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A George Robertie.

Q You are a Major in the Army of the United States?

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A Yes.

Q Air Corps?

A Yes.

Q When was the last time that you saw the man with whom you were confronted a moment ago?

A As near as I can remember it was sometime the early part of this year, January or February.

Q Dates have become rather important this morning, Major. Can't you remember the date exactly?

A No.

Q What duty were you performing that day in January?

A I was at the time the chief of the prosecution. It was just getting started. The office was getting organized and Mr. Berkowitz was doing the interrogations with the aid of a German interpreter in my office or in the building. The general routine of the cases on the interrogation of these individuals was that I would swear them in when they entered the room. Then when the stenographer or interpreter returned with the statements which he read to them in German and they would be signed, I would swear them.

Q Now on the particular day in question, were you performing that same duty in your office throughout the day?

A I was.

Q About how many prisoners would you say were interrogated that day.

A On that particular day--at the most, four.

Q You remained in the office all the time, did you?

A I did.

Q Did you take part in the interrogation itself?

A No.

Q How large is this office?

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A Well, if you give me a moment I will go out and measure it. The office is right here in the building.

PRESIDENT: I do not think anything like that is necessary. Approximation is sufficient.

A The room is what the court now uses as a chamber.

Q That satisfies me for an answer.

Q How many people were usually in the room during these interrogations?

A Mr. Berkowitz, the person being interrogated, an interpreter who in most cases was the person who took the notes down in German, and myself.

Q You yourself propounded no questions, so therefore you had no direct contact with the prisoner?

A I propounded no questions.

Q You administered only the oath?

A At times I would make suggestions to Mr. Berkowitz about his questions, either adding to them or to question along another line, but I propounded no questions directly to the interpreter for interpretation to the prisoner.

Q Now I don't ask for a stop watch answer, but about how long does it take you to propound an oath?

A May I ask for an explanation of your question. I don't quite understand. I am not exactly sure what you mean when you say "how long"—from the time the person stands up and I stand up, the oath is read, and the person goes out, or what? I would say 3 or 4 minutes.

Q Would you estimate that it took you 3 or 4 minutes before the court here?

A No, sir.

Q Is there any substantial difference between the

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procedure that you adopted and the one that you used here this morning?

A Yes.

Q What is the substantial difference?

A In those days, at just the beginning of the partition of these cases, and also at the beginning of my work as prosecutor, I wanted to make sure that the people who were taking the oath understood it fully, so I went into it in in detail so that they would know exactly what they were swearing to.

Q You say "in those days. Has the procedure changed?

A I really don't know. I have just returned from the States after an absence of many months.

Q On the exhibit in question, [redacted], it simply says "Subscribed and sworn to before me in Dachau this 16th day of January, 1946. As I understand it then, you went into quite a detailed explanation besides that.

A Yes. I felt it necessary to explain it, as the mere words that are there in that oath probably would not mean much to these men, so I explained to them that whatever they were talking about, whatever their statements in substance might be, were to be absolutely the truth and not untruthful in that they were to add or withhold anything.

Q Do you have any recollection as to how long Gelhardt was in the room at that time?

A I would say probably one hour and one half to two hours.

Q Was that the only occasion that you saw him?

A That I would not say.

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Q You don't know for sure?

A No.

Q About how many interrogations have you been involved in altogether?

A In the Flossenburg case, in my office, I can say there were probably 200.

Q Did you know that the accused Gelhardt was on the stand this morning when you came into the court room?

A No.

MR. HALL: No further questions.

PRESIDENT: Prosecution?

MR. MERKOWITZ: No further questions, sir.

PRESIDENT: The court would like to have a copy of Prosecution Exhibit 58A. Dr. Wacker, do you have something?

DIRECT EXAMINATION (CONTINUED)

QUESTIONS BY DR. WACKER:

Q Which accused who are sitting here in the dock would you say you gave the oath to in the same way?

A Do you want me to pick out certain ones?

Q Yes. I would like to know which of the ones sitting here in the dock you gave an oath in the same way.

PRESIDENT: Just a minute, Dr. Wacker. Do you want the individuals indicated by name or do you want them identified?

DR. WACKER: Both, if possible.

A Of the prisoners that I can see in the dock the only one I would say with assurance is No. 4, who is Blomberg.

Q Is the record of the interrogation signed immediately after the oath is given, or is the signature separated from the

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oath by a lapse of time as a rule?

A The procedure was to finish the interrogation and then the interpreter would take the notes to his office and type them. Later on, he would read them to the prisoner in German. I would swear the n in and the interrogation was signed there and then.

DR. WACKER: Thank you.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Major, the court would like to know whether other individuals were sworn on that particular day.

A The court wants to know about the very same day?

Q We are referring to the case of Gelhardt.

A Not that I would remember. He would be the only victim in the office being interrogated at that time.

Q The court is not referring to a defendant or a prospective defendant, but the court would like to know whether or not any other individuals were sworn during the course of this interrogation.

A The interpreter was also sworn.

Q Major, the court will hand you Prosecution Exhibit No. 58, and the court would like to know whether or not that is your signature contained thereon.

A Yes, in both cases, that is my signature.

Q You have indicated to the court that the usual procedure was that after an interrogation, the notes were transcribed, and at a later period the individual who had been interrogated was again brought before you, that the document was read to him, that you swore him in at that particular

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time. You mentioned that that was the usual procedure. Can you tell the court definitely, Major, that that procedure was followed in this particular instance in the case of Prosecution Exhibit No. 58.

A Yes, sir.

Q The court will hand you these documents again, Major—Prosecution Exhibits 58 and 58A—and give you an opportunity to look them over.

A I think I have seen them without actually reading the English.

Q The court wantsto know as to whether or not the German copy, that is Prosecution Exhibit No. 58, con tains information that was dictated to the stenographer by Gelhardt or whether or not that statement was prepared beforehand. By beforehand the court means prior to the start of the investigation and then handed to Gelhardt for signature. You have stated that you were present during the entire interrogation and the court desires to secure that information.

A No statement was prepared before the investigation. All statements such as this are the result of the interrogation and the notes taken by the interpreter, which notes were later brought to the office and typed.

Q What the court wants to find out then, Major, is whether or not Prosecution Exhibit No. 58 contains the exact dictation of Gelhardt or whether or not it contains the dictation of some other individual and that document having been signed by Gelhardt at a later period.

A This was signed by Gelhardt because it was his statement.

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Q The court appreciates the fact that it was signed by Gelhardt, but the court wants to know whether or not that statement was dictated by Gelhardt himself.

A This statement was read back to Gelhardt.

Q That is not the question, Major, the court wants to know whether or not that statement contained in Prosecution Exhibit No. 58 was a statement dictated by Gelhardt to the stenographer.

A Inasmuch as Gelhardt told the translater who was under oath, my answer is yes, but I do not understand German.

Q The court will refer you to Prosecution Exhibit No. 58A which is a translation. The court will give you an opportunity to peruse No. 58A.

A Then I would say that this statement is the statement we made up from notes from the different questions Gelhardt answered to Mr. Berkowitz through the interpreter.

Q Then the court understands that the evidence contained in the Exhibit No. 58A, the English copy, was not definitely dictated by the accused Gelhardt to the stenographer.

A The English statement is the result of the questions that took place during the questioning, not as a complete statement. The questioning period would start off asking the man's name, and then there would be a series of questions as to what made up this statement.

Q Then the court understands that it is not a verbatim report of the statement made by Gelhardt to the stenographer.

A No.

Q It was made up of various notes made during the course

(Robertie-Court)

of the interrogation. Is that right?

A Yes.

Q Who compiled that particular statement?

A Mostly it was the interpreter and the typist.

PRESIDENT: Any further questions, members of the court?

QUESTIONS BY COLONEL JACKSON:

Q You say the interpreter consolidated the notes. Did he consolidate those notes without any supervision. The point I want to make is who determined what should go into that report?

A I don't quite understand the question.

Q It was a series of many questions asked at the interview and the answers were consolidated into the form of a statement, is that right?

A Yes, sir.

Q Who determined what answers would go into that statement.

A Mr. Berkowitz.

COLONEL JACKSON: That is all.

QUESTIONS BY THE PRESIDENT:

Q The court now understands that the statement was formulated by Mr. Berkowitz. Is that correct?

A The placing of the answers into the form of a readable statement, yes.

Q The court understands, Major, that this particular copy was read to the accused Gelhardt in German before he signed it.

A Yes.

PRESIDENT: Any further questions by members of

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the court? Apparently not. For the benefit of the record, Major, the court would like to know your serial number.

WITNESS ROBERTIE: My serial number is 0-302010.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect, Mr. Hall?

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Are you a lawyer?

A Yes, I am.

Q You are of course then familiar with the general terminology which is described as a "leading question"?

A My five and one half years in a uniform has probably made that quite dim.

Q Well, I question if we can teach you anything ourselves. Did any of your interrogators ask leading questions when they conducted these interviews?

A I don't thing so.

Q Didn't the accused when they were interrogated give an awful lot of yes or no answers?

A I could only answer that by saying about 50-50. Sometimes they would quickly answer yes, and other times they would go into lengthy detail. They would go into dissertations to the extent that it would be necessary to cut them off.

Q Then you would go so far as to say that half of the interrogation was the result of leading questions and the other half not. Is that right?

PROSECUTION: May it please the court, I object to that question on the ground that it assumed for the very beginning that a question which is answered yes or no is a

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leading question and that of course is not right.

MR. HALL: This is just a bunch of lawyers talking now and I am sure the Major can take care of himself.

PROSECUTION: I grant you that he can take care of himself, but nevertheless it is my duty as representative of the U. S. Government to protect him as far as I am able.

PRESIDENT: Just a minute, Mr. Prosecutor, the court feels that the protection is hardly necessary in view of the evidently long experience of this witness in the regular field.

The objection is sustained.

QUESTIONS BY MR. HALL (CONTINUED):

Q What percentage of questions asked by the interrogators, particularly in the case of Colhardt, were leadin g questions?

A I really don't remember.

Q What did you mean then a moment ago when you said half and half?

A I am giving you my opinion of the general questioning of all the people in my office.

Q Well, to what does half and half refer.

A To the way they answered the questions. I would say half and half. They either said yes or no, and I understand enough German to know that, or I know when they went into long talking even to the extent that they had to be shut off.

Q When about half of the time they said yes or no in response to a question. Is that correct?

A Yes.

Q Would you say that this particular document which you have just examined contains all the answers given by the accused in question.

A No.

Q In other words, some answers were left out?

A I wouldn't say that.

Q What would you say then?

A I am answering your question.

Q I asked if it contained all the answers and you said "no" and I asked if some were left out and you said, "I wouldn't say that".

A That is just what I mean.

Q Well, then, was the only thing that was left out that which was considered immaterial?

A I don't understand the question. In the first place I did not handle the interrogation of the prisoner, or the detail of what went into the statement.

Q I am talking to you as one who was present at the time. Would you say that that which was not put in was deemed immaterial by someone in authority?

A I wouldn't answer that because I don't know.

Q I believe you said the interrogation lasted an hour and one half or two hours. What would you estimate the reading time of Prosecution Exhibit 58 to be?

A To read it carefully and absorb everything in it, I would say it would take at least 20 minutes.

Q Do you know whether or not the accused Gelhardt studied that document twenty minutes before he signed it?

A As far as I know, Gelhardt didn't study it.

MR. HALL: No further questions.

PRESIDENT: The court will recess until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

Camp Dachau, Germany
17 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all members of the court and the prosecution are present; all the personnel of the defense are present with the exception of Doctor Engelhorn, who is absent on business for the accused; all accused are present with the exception of Buddensieg, Oswalt, Olschewski, Jacubith, and Lipinski, who are sick and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room?

MAJOR GEORGE (ROBERTIS, called as a witness by the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Major, the court would like to know whether a stenographic record was made of this entire interrogation you mentioned this morning.

THE WITNESS: You mean the notes of the stenographer?

PRESIDENT: I am not referring to the notes. The court is referring to a stenographic record of just exactly what transpired during the course of this investigation or interrogation about which you testified this morning.

(Robertis-court)

THE WITNESS: I don't know, sir.

PRESIDENT: Weren't you right there, Major?

THE WITNESS: I misunderstood your question, sir. Do you mean what went on in the room during the interrogation? A stenographic record was made at that time.

PRESIDENT: The court is referring to whether or not a stenographic record was kept of everything that transpired during the course of that interrogation about which you testified this morning.

THE WITNESS: Yes, sir.

QUESTIONS BY THE PRESIDENT (Continued):

Q Then that record should include a series of questions and answers, shouldn't it?

A Yes, sir.

Q Do you know anything about where that record is at the present time?

A No, sir.

Q But it was included in the record of the Flossenburg trial, is that correct?

A I don't know, sir. This is my first appearance at this trial.

Q But the court understands that you conducted some of the original interrogations, didn't you?

A Some few at the very beginning. I left long before the Flossenburg case was ready for trial. Actually, what was put in the record of the trial to make up the trial I don't know.

Q Do you know what became of those notes that were taken

down by the stenographer at that particular time?

A I can't state positively. I imagine they are in his possession now or wherever they kept their note books. I don't know.

Q Then you are not certain whether the transcript of these notes taken by the stenographer was held in the records of the Flossenburg trial during the time you were connected with this case?

A No, sir, I don't know.

Q Major, during the time you were connected with the Flossenburg trial did you have a Second Lieutenant Paul Guth under your jurisdiction at that time?

A Lieutenant Paul Guth was a member of the staff here. He was not directly connected with me in the interrogation of the Flossenburg case.

Q During the time you were connected with the Flossenburg case did Lieutenant Paul Guth have anything to do with the interrogations of any individuals?

A Yes, sir.

Q Then he was under your supervision, was he not?

A He wasn't under my jurisdiction on the work on the Flossenburg case. There was one time I did call in Lieutenant Guth to assist in the interrogation of one man connected with the case.

Q Who was being interrogated at that time?

A Blomberg, No. 4.

Q That is the only time he had anything to do with interrogations during the time you were connected with the case?

(Robertie-court)

A Yes.

Q Are you familiar with this alleged interrogation that occurred at Freising in the case of Gelhardt?

A No, sir.

Q Do you know whether Lieutenant Paul Guth whom you just mentioned had anything to do with that original interrogation at Freising?

A No, sir.

PRESIDENT: The court appreciates, Major, that your answer was undoubtedly based upon personal knowledge, but this court will receive hearsay evidence as well. Had you ever heard that Lieutenant Paul Guth, either in the capacity of commissioned officer, enlisted man, or U. S. civilian, had anything to do with the interrogation at Freising?

THE WITNESS: I have heard that Paul Guth, either as an enlisted man, or when he was just commissioned, had assisted the armies as they came in in the interrogations because of his excellent knowledge of the language, but my knowledge of that did not bring it down to any individual person he interrogated. He just helped them out.

QUESTIONS BY THE PRESIDENT (Continued):

Q Were you present during the interrogation of Blomberg by Guth?

A Part of the time, yes.

Q Did anything unusual happen during the course of that interrogation so far as Guth is concerned?

A Other than the raising of his voice, no.

(Robertie-court)

Q You mentioned Major, that you had heard that Guth did have something to do with interrogations at Freising?

A No, sir, I didn't mention any particular city or any particular people. I had heard that Guth had done a lot of interrogation work, but no cities were named and no particular people.

PRESIDENT: The court will correct that question, Major. You have mentioned that you have heard Guth did have previous experiences as an investigator, that is, prior to his duty at Dachau. Did you hear of anything unusual that occurred or that might have occurred during those investigations by Guth?

THE WITNESS: Also hearsay, I heard that he had great success because he knew the people so well, he talked their language so well, that he had much more success in interrogating than someone else like me who doesn't know the language.

QUESTIONS BY THE PRESIDENT (Continued):

Q Did you hear that there were any other reasons for his success?

A No, sir.

Q Did you ever hear that he beat prisoners during the course of interrogations?

A No, sir.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Do you know where Lieutenant Guth is today?

THE WITNESS: Is hearsay still allowed, sir?

PRESIDENT: Yes.

THE WITNESS: I hear from hearsay that the particular individual in question is in New York.

QUESTIONS BY MR. HALL (Continued):

Q Do you have any knowledge as to when he left here?

A He left here after I did, so I don't really know.

Q Do you think this loud voice that he used could in any way be interpreted as threatening to the prisoner who was being interrogated?

A I don't think it could be interpreted as threatening.

Q What do you mean by a loud voice?

A If Colonel Wilson were deaf and I wanted to make him hear something from here I naturally would speak in a loud voice.

Q Did Blomberg appear to be deaf at the time?

A No.

MR. HALL: That is all.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q What is the status of Paul Guth at the present time, do you know?

A From hearsay, that the young man is a student at a law school in New York.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect, Colonel Wilson.

REDIRECT EXAMINATION (Continued)

QUESTIONS BY LIEUTENANT COLONEL WILSON:

Q You testified, Major, that you called Lieutenant Guth

in to assist in the interrogation of Blomberg. Do you know who administeredthe oath at the time to Blomberg?

A I don't know, but I would say that Guth probably administered it himself as a commissioned officer of the Army.

Q Were you present at the time?

A At part of the interrogation, yes, not all of it.

Q Did you question Blomberg yourself?

A No, sir.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Major, you mentioned that undoubtedly in your opinion Lieutenant Guth administered the oath as an officer of the Army. What do you mean by that? Do you mean by that his commissioned status would entitle him under any circumstances to administer an oath, or was it due to a special duty he was on at that time?

A As both a commissioned officer of the Army and an official investigator of War Crimes, but principally in his position as a commissioned officer of the Army he was able to give oaths to people he was interrogating.

Q The court is under the impression that you mean not only due to his commissioned status but also as an investigator he was entitled to do that?

A If I might explain that, I might put it this way: in the interrogation of these prisoners the less people in a room the more successful the interrogation was because they naturally wouldn't talk before a crowd. Therefore, if Lieutenant Guth would handle the job of doing the swearing, interpreting, and questioning, and reduce those present to a minimum, his results would probably be very good. May I add that up until this time

(Robertis-court)

the success of questioning Blomberg was practically nothing, and that was the reason I asked to have Lieutenant Guth question him.

PRESIDENT: Are there any further questions by the court?

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q Where did this interrogation of Blomberg take place?

A In Lieutenant Guth's office.

Q You went into the office and then out again, is that correct?

A Several times during the course of the interrogation I dropped in to see how they were coming along.

QUESTIONS BY THE LAW MEMBER:

Q When did you go home, Major?

A I departed Dachau about the middle of March, the 17th or 18th of March. May I add here that the second member from the left asked a question about going in and out. I did that because I couldn't remain interested sitting in a room between two Germans when I understood absolutely nothing.

QUESTION BY LIEUTENANT COLONEL BURCHAM:

Q There was a stenographer there, too, I assume?

A Yes, sir.

QUESTIONS BY COLONEL JACKSON:

Q At the time Lieutenant Guth interviewed the accused, Blomberg, had he been appointed an investigating officer?

A He was an investigating officer in this headquarters or detachment.

Q He had been regularly appointed and could, therefore, administer oaths, is that correct?

A Yes, sir, I know that to be a fact because the first day I arrived here Lieutenant Guth was giving an oath as I walked in the office which was formerly used and which is now the court chamber.

QUESTION BY THE LAW MEMBER:

Q You wouldn't know the date he was commissioned, would you, Major?

A Lieutenant Guth? I'm sorry, I didn't know the gentleman when I arrived at this post.

QUESTIONS BY COLONEL JACKSON:

Q Do you know whether officers of the Army are authorized to give an oath?

A My understanding is that any officer in the Army is empowered to give an oath.

COLONEL JACKSON: The 114th Article of War covers that.

PRESIDENT: The court suggests that at the first opportunity you look that matter up.

THE WITNESS: I will, sir. Thank you, sir.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

REDIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL:

Q You mentioned that until the time Lieutenant Guth took over in the Blomberg interrogation it was not very successful.

A I mentioned that up until the time I asked Lieutenant

(Robertie-redirect continued)

Guth to question Blomberg we had been unsuccessful in getting anything from Blomberg.

Q What were you seeking from Blomberg?

A A statement as to his operations at the concentration camp.

Q How many times did you endeavor to obtain that statement?

A I'd say probably five or six times.

Q How successful was Lieutenant Guth?

PROSECUTION: I object to that, may it please the court, on the ground that it is immaterial, and irrelevant to the issues of this case. It invades the province of the court to determine what is successful and what is unsuccessful with regard to the content of that particular statement.

MR. HALL: I withdraw the question.

QUESTIONS BY MR. HALL (Continued):

Q Did Lieutenant Guth obtain the statement from Blomberg?

A I don't know. I might add that was just at the time I was leaving Dachau.

Q Major, I show you court Exhibit 1 in evidence and ask if you recognize any of the individuals?

A Yes, I recognize some of them.

Q Will you please name those you recognize?

A Major Ceding, Lieutenant Guth, Colonel Denson, and I think Colonel Wilson.

Q Will you determine whether there is any mark over the head of Lieutenant Guth?

(Robertie-redirect continued)

A Yes, there seems to be an indelible mark.

Q In the form of an "X"?

A Yes.

Q I show you court exhibit 2 and ask if you recognize any individuals in it.

A I do.

Q Please name them.

A Captain Lane, Captain Matthews, Lieutenant Guth with the same "X " over his head, and Colonel Denson.

Q I show you court exhibit 3. Do you recognize any individuals there?

A Captain Lane, Colonel Denson, and Lieutenant Guth with an " X" over his head.

MR. HALL: That's all, sir.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Major, is it a fact that the procedure that was followed with respect to the interrogations that took place while you were here was that the person being interrogated was asked questions to which he replied and that the questions and answers were taken down by a stenographer?

A Yes.

Q And thereafter the stenographic notes were reduced to narrative form?

A That is correct.

Q And after they had been reduced to narrative form they were brought in and given to the accused?

(Robertirecross)

A That is correct.

Q And the accused usually read them over to make corrections or any changes they wished to make?

A That is correct and sometimes, or most of the time, they were also read to the accused at the time they were given to them.

Q And at that time they were asked whether the statements were being executed voluntarily, without any coercion and that they contained the truth, having nothing added or withheld?

A That is correct.

Q At any time was a statement dictated by an interrogator and that statement given to the person who was being questioned to sign?

A No.

Q In other words, the narrative form of the statement was made up, then, from the notes that had been taken down by the stenographer, is that correct?

A That is correct.

Q And the stenographer, who was also the interpreter, was sworn prior to the undertaking of this transcription, is that correct?

A That is correct.

Q Do you know of any instances where persons being interrogated by you or anyone under your supervision were forced to sign any statement?

A Absolutely not.

Q Was Gelhardt forced to sign any statement that you know of?

(Robertirecross)

A No person was forced to sign any statement.

Q Prior to the time the statement was signed by Gelhardt was any force of any kind or character employed to induce him to sign the statement?

A No, none whatsoever.

Q Were any threats of any kind or character employed to induce Gelhardt to sign the document marked Prosecution's Exhibit No. 58?

A No threats were ever used in my office.

Q Did you at any time while you were present there hear Gelhardt remonstrate with Mr. Berkowitz?

A No, sir.

PROSECUTION: No further questions.

PRESIDENT: Mr. Hall.

REDIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL:

Q You have just been questioned by Mr. Denson. Did any of your interrogators dictate to the accused in the manner in which Mr. Denson questioned you? That is to say, with similarly leading questions?

A My interrogators never dictated to the accused.

Q Did they used leading questions of the type just propounded by Mr. Denson?

A No, I don't think so.

Q Do you know who made the final decision as to what form the narrative would take?

A It would be a combination of the interrogator and the

(Robertiredirect continued)

person he was interrogating. If the statement form after it was returned by the stenographer and given to the person who was interrogated and read to him wasn't agreeable then it was taken over again until it was agreeable between the two, so that the two of them together produced the statement.

Q Major, have you yourself ever been a prisoner of a foreign power?

A No.

Q Then you wouldn't know exactly how a prisoner might feel when being interrogated by a foreign power?

A I don't think I'd be in a position to know.

Q You wouldn't know how many interrogations a prisoner might have had before you gave him the oath, would you?

A No.

MR. HALL: That's all.

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q How many times did you say Blomberg was interrogated?

A I didn't get the question.

Q How many times was he interrogated before being interrogated by Guth?

A From the best of my recollection five or six times. I am referring to interrogations in my office.

Q Why was he brought back five or six times to be interrogated?

A Well I can imagine because he was probably the highest official we had in camp in custody at that time.

(Robertiecourt)

Q Why didn't you get a statement from him the first time you interrogated him?

A In all probability he wouldn't give one, sir, as was the custom in lots of cases.

Q Was any punishment or any force used to get the statement?

A I want it understood, sir, that there was absolutely no force used in connection with questioning taking place in Dachau while I was here.

Q Do you know whether certain of the prisoners were put in solitary confinement because of their refusal to give statements?

A Yes, I think some of them were put in solitary confinement here at Dachau.

Q Would you consider that force?

A No, sir.

Q Would you consider it coercion or duress?

A No, sir.

Q Would you consider a statement obtained in that manner voluntary?

A After visiting the solitary confinement part of this camp to see where and under what conditions such prisoners lived I wouldn't consider it force or duress. As a matter of fact in some cases there were better living conditions than in other parts of the camp.

Q When you say these statements were all obtained voluntarily without force or pressure do you have in mind the fact that some were put in solitary confinement?

(Robertis-court)

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Q When you say these statements were all obtained voluntarily without force or pressure do you have in mind the fact that some were put in solitary confinement?

(Robertis-court)

A I never considered solitary confinement here as force or duress.

Q Did you put prisoners in solitary confinement because they refused to give you statements?

A Sir, I didn't take any statements.

Q Well you participated, according to your statements this morning, in taking statements and advised Mr. Berkowitz as to things you thought he should bring out.

A Yes, sir.

Q Now will you answer my question.

A In aiding Mr. Berkowitz to take statements or in taking statements from other prisoners, I'd suggest this and suggest that.

Q Now I ask you did you put prisoners in solitary confinement because of their refusal to give statements?

A As far as I remember, sir, no.

Q Would you want to make a definite statement?

A Again I can only say as to the one defendant, Blomberg. I don't ever remember giving any orders to anybody to have Blomberg put in solitary confinement. When I did visit the solitary confinement part of this prison he was in there.

Q Did you authorize that solitary confinement?

A I don't remember sir. No one came to me for a signature or directive to put him in.

Q Do you know whether any other punishment besides solitary confinement was meted out to Blomberg in order to obtain a statement?

A To my knowledge none.

(Recess of court)

Q What did you hear?

A I say to my knowledge there was none.

Q To your knowledge, but haven't you heard of any other?

A I haven't heard.

QUESTIONS BY THE PRESIDENT:

Q Major, how long did these periods of solitary confinement last?

A I don't know, sir.

Q Did that solitary confinement include bread and water diet?

A I don't know. In answer I might say the only time I was ever present in the solitary confinement part when meals were served was one time around noon, I think it was, when a large pot of what in American slang would still be called Irish stew, was served to the prisoners. I remember I stopped and smelled of it and remarked that it smelled very good.

Q During the time that you were Senior Prosecutor in the early days of the prosecution's case, during the investigation period, you appreciate the fact, don't you, that you were responsible for the actions of those under you?

A Yes, sir.

Q In other words, if one of your assistant prosecutors or investigators ordered a man into solitary confinement that particular man being under your jurisdiction, you would be responsible.

A Yes, sir.

PRESIDENT: Are there any further questions by members

(Robertic court)

of the court?

QUESTIONS BY COLONEL JACKSON:

Q Referring to the interview and interrogation between the accused, Gelhardt and Mr. Berkowitz, was that conducted in the German language or in English?

A Mr. Berkowitz spoke in English, the interpreter interpreted the questions in German, then interpreted the answers back from Gelhardt to Berkowitz in English.

QUESTIONS BY THE PRESIDENT:

Q Major, you mentioned that during your connection with the Flossenburg case no force or duress was exercised upon any prisoner. You weren't present during all periods of interrogation, were you?

A No, sir, I don't think I was present during all interrogations.

Q Then what you meant is that nothing like that occurred in your presence, is that correct?

A That is the impression I wish to give the court — that in my presence or to my knowledge there was never any force or duress used in obtaining statements from the defendants.

PRESIDENT: Are there any further questions by the court? Apparently not. Redirect, Mr. Hall?

MR. HALL: Nothing, sir.

PRESIDENT: Prosecution?

PROSECUTION: Yes, sir.

(Robertiecourt)

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Major, isn't it elementary that when you have a group of people who are being interrogated that as soon as one has been interrogated he is segregated from the rest of the group?

A I would say in common sense in criminal investigation that is the first principle.

PROSECUTION: No further questions.

PRESIDENT: Redirect, Mr. Hall.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Major, isn't it more elementary that they would be segregated before interrogation?

A Well, in answer to that I may say when I came here I was told there were some four hundred and some odd supposed perpetrators or possible defendants. Under those circumstances it would be impossible to set them aside in individual places.

Q Which is more elementary — before you have their statements in writing or after?

A As a general rule before we have their statements. I might add that lots of times in the interrogation of these defendants a statement was by no means obtained at the time of the first interrogation.

Q Then what was the purpose of the first interrogation?

A To obtain a statement.

Q Why didn't you obtain a statement?

A For some reason or another they just wouldn't make a

(Robertiredirect)

statement.

Q Was it then they would be placed in solitary confinement?

A I wouldn't say they all were. Probably some of them were.

Q What would be the purpose of placing them in solitary confinement?

A To give them time to think it over, to refresh their memory.

Q Do you think they could refresh their memory better by themselves?

A Well I don't think I ever saw one alone. The most I saw of solitary confinement cells in this camp had two, three, or four people in them so they weren't by themselves.

PRESIDENT: Are there any further questions by the defense on redirect examination?

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q Did you ever have a case in which you were unable to ultimately obtain a statement?

A I can imagine in answer to that question that there were probably lots of statements that hadn't been obtained when I left Dachau. Whether they were obtained later I don't know.

PRESIDENT: Recross?

PROSECUTION: Yes, sir.

RECROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q There has been much talk here, Major, about solitary confinement. Do you differentiate between segregation and solitary confinement?

A Well I don't think segregation was possible in this camp unless they put a man in a cell where no one could get near him and in this particular case I have never seen any of the cells in solitary confinement where there was only one man in it and in this particular case I never saw Blomberg alone.

Q In regard to this solitary confinement were there windows in the cell that was supposed to be used for the purpose of confinement?

A In the solitary confinement here there are windows in them, most of them have beds, some of them have sinks, some have tables and chairs. That is why I say in the wildest extremes you couldn't say it was duress or force.

Q When they were so confined they received the same food as the other prisoners, did they not?

A That I don't know.

PROSECUTION: That's all.

PRESIDENT: REDIRECT?

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q Major, did you listen in on this trial this morning or yesterday afternoon at all?

A I did not.

DOCTOR WACKER: That is all.

(Robertie-redirect)

PRESIDENT: Any further redirect?

MR. HALL: That is all, sir.

PRESIDENT: The court understands that the defense has finished with this particular witness at this time?

MR. HALL: Yes, sir.

PRESIDENT: The witness will be excused.

(Thereupon the witness was excused and left the court room.)

MR. HALL: Sir, one of the accused was asking me a question just as the court came in at one thirty. I'd like to have a few minutes, if the court please, to see what this question is.

PRESIDENT: The court will take a short recess in place.

(Thereupon the court recessed in place and reconvened at 1435 hours.)

PRESIDENT: The court will come to order.

MR. HALL: The defense calls as its next witness Mr. Roller, an accused, who desires to take the stand in his own behalf.

PRESIDENT: Is Roller No. 39?

MR. HALL: Yes, sir, No. 39.

ALBERT ROLLER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

PRESIDENT: Roller, the court understands you desire to take the stand in your own behalf, is that correct?

ACCUSED ROLLER: Yes, sir.

PRESIDENT: Proceed, Mr. Hall.

DIRECT EXAMINATION

QUESTIONS BY Lt. HALL:

Q Please state your name.

A Albert Roller.

Q Your nationality.

A German.

Q Your age.

A Thirty-eight.

Q Briefly what has been your education?

A I went to grade school for eight years, three years in a trade school and one year in a high specialist school.

Q Specialist in what?

A Administrative specialist school.

Q What has been your civilian occupation?

A I learned the smithy profession, blacksmith. Since 1927 to 1939 I was a professional soldier.

Q Are you married?

A Yes, sir.

Q Do you have any children?

A Yes, four.

Q What are their ages?

A Thirteen, ten, nine, seven.

Q Are they all living?

A Yes.

Q Were you ever a member of the National Socialist Party?

A No.

Q Please tell us briefly about your professional military service.

(Roller-direct)

A I had the following ranks as a professional soldier: when I first entered the National Army I was given the rank of cannoneer. Then I became chief cannoneer, then Private First Class, Corporal, Sergeant, Watchmaster, Warrant Officer, Chief Warrant Officer, Staff Warrant Officer, and later on Assistant Administrator.

Q What benefits can a professional soldier hope to receive by being a professional soldier in the German Army?

PROSECUTION: I object to that on the ground that it is immaterial and irrelevant to the issues of this case.

MR. HALL: It doesn't prove that he killed or didn't kill anybody, I assure you. My desire is simply to show what motivates this man to be a professional soldier.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. HALL (Continued):

Q Please describe where you performed your duty as a soldier?

A I was a professional soldier with the artillery.

Q Where did you perform your duty?

A For one year I was trained as a cannoneer and when that year was over I served as an ordnance maker, as a chauffeur, and as a driver of a gun, a driver of a train, and a battery officer.

Q Did you perform any military service in this war?

A When war broke out I was put into action to protect the west boundary. From September, 1939 until May, 1940 I took part in the French campaign in the west. After the French campaign was over I was put into action there on the English Channel as a member of the coast artillery.

Q During the time you were in action in the French campaign and in the coast artillery what branch of the military

service were you in, that is, the SS, Wehrmacht, or what?

A I belonged to the regular army, artillery.

Q When did you come to the SS?

A In September, 1944, I came to the SS.

Q How did you happen to come to the SS?

A I was released from the Army in November, 1940. The 1st of December, 1940, I was drafted into the air force as an administrative official.

Q What were you then, military or civilian?

A The preparatory time I spent as a civilian, when I was trained. The first day, ninth month, 1941 I became an assistant administrator and was put in as an official in the area air force of Nuernberg No. 1213. The 1st of November, 1941, I was put into the army again and sent into action in the east. I was put in the communications outfit of the Army No. 310. I stayed in this position until April, 1943. The headquarters of the air force put out an order that officials who were in the ages — there were officials of various ages — from 02 to 012, they had to give up their activities as officials and they were to be put into action again as soldiers. The 1st of May I came to the air protective area No. 12 in Wiesbaden and was transferred as a soldier to the air force. In July 1943 I had stomache trouble and came into the air force hospital in Frankfurt on the Main River. After I recovered my health I came to the air force replacement battalion Trier. When I got out of the hospital I was designated as fit for duty in a garrison at home. Since I wasn't able to do duty at the front any more I was designated as fit for guard duty and I came into the SS.

(Roller-direct)

Q What do you mean by "designated"?

A On the basis of my stomache trouble.

Q Were you voluntarily a member of the SS or what?

A No, I wasn't voluntarily there.

Q What was your rank just before you came into the SS?

A Staff Sergeant.

Q When you were taken into the SS what was your rank?

A I kept the same rank except it received a different name and the rank in the SS was Storm Sergeant, Staff Sergeant.

Q Were you ever at Camp Flossenburg?

A Yes, in September, the 25th of September, 1944 I came to Flossenburg.

Q How long were you there?

A I stayed in Flossenburg until the 5th of October, 1944.

Q Where did you go from there?

A On the 5th of October the commander of the camp, Koegel, ordered me to go to Lengenfeld in Saxony.

Q What title did you have at Lengenfeld?

A Staff Sergeant of the SS.

Q Who was the commandant?

A In Legenfeld I was a detail leader.

Q Now when/you did leave Legenfeld?

A The 13th of April, 1945 at nine o'clock in the evening I left Lengenfeld.

Q How did you happen to leave Legenfeld?

A On the 12th of April Sergeant Moench, commando leader in Zwickau, called me up on the telephone. I myself didn't speak on the telephone. The commando leader of Zwickau ordered

(Roller-direct)

on the telephone that on the next day I would have to appear in Zwickau at twelve o'clock. When the clerk asked him what the reason for that was he said it was secret. On the same evening I tried to reach him by telephone again but I couldn't get in touch with him, so on the 13th of April early in the morning I drove off on my bicycle to Zwickau. I didn't arrive in Zwickau until 11:45 because I had been delayed by an air raid.

PRESIDENT: The court feels this particular witness is going too much into detail. The court will receive a certain amount of evidence but the court requests that the witness confine himself to his duty.

QUESTIONS BY MR. HALL (Continued):

Q When did you arrive in Zwickau?

A Just before twelve noon I arrived in Zwickau.

Q Whom did you contact there?

A I met Sergeant Mönch, the commando leader of the commando there in Zwickau.

Q Did you have any conversation with Sergeant Mönch?

A Yes.

Q Who was present?

A Only I and Mönch and a clerk of his.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours.)

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Camp Dachau, Germany
17 October 1946

AFTERNOON SESSION

(Thereupon the court re-convened at 1535 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn (Gebhorn) who is absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, and Lipinski, who are sick in hospital. The interests of the named accused are being taken care of by counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Continuation of direct examination, Mr. Hall.

ALBERT ROLLER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION CONTINUED

QUESTION BY MR. HALL:

Q Roller, what was this conversation with Sergeant Muensch at Zwickau?

A (Muensch) told me that he had received evacuation orders for Zwickau, (Plauen) and Lengenfeld. That the details of Zwickau, Plauen would arrive in Lengenfeld during the day. From Lengenfeld the transport would proceed under his leadership.

Q At the time you had that conversation with Muench, what was your rank?

A I had the rank of master sergeant.

Q What was Muench's rank?

A Muench was sergeant.

Q What happened then?

A I returned to Lengenfeld and got there at about 4:00 o'clock. They had been waiting for me since 11:00 o'clock in Lengenfeld because the evacuation orders had been received there by the local police forces, -- by the authorities there.

Q Going back to this conversation at Zwickau for a moment. How do you account for the fact that you, a master sergeant, or rather that Muench, a sergeant, was given command of the three columns when you were a master sergeant?

A I assumed that he had orders from the commandant, as he told me.

Q Was Muench in the Wehrmacht, the SS, or what?

A I know that Muench had been working in the SS since 1942, that is to say at a camp in the east.

Q At that time, how long had you been with the SS?

A I had been with the SS for six months.

Q After you left Muench, then you went back to Lengenfeld, is that correct?

A Yes.

Q What happened then?

A I carried out preparations in Lengenfeld for the march the next morning. Then I was pressed by the local authorities to evacuate in the evening.

(Roller-Direct)

Q When did you leave?

A I marched away in the evening of the 13th, about 9:00 o'clock. That meant I sent away the prisoners on the transport and I myself stayed in Lengenfeld until about 11:00 o'clock.

Q Approximately how many prisoners did you leave with at that time?

A About 660 prisoners participated in this march?

Q How many prisoners did you have approximately the next morning?

A I reached the column about 12:00 o'clock midnight. It was rather dark. I drove ahead to find a place where we could take a rest. I drove to the next village. It became darker yet, so that you could hardly see your hand in front of your face. I awaited the column in this village and broke up the march. I heard then from the guards that on the way, several prisoners escaped in the woods. But the people could not do anything about it, because it was dark. The next morning, I called a strength roll call to count and could determine that 198 prisoners were missing. In the course of the day, eight or nine prisoners were returned.

Q After your conversation with Muenzch in Zwickau, when was the next time you saw him?

A This same day, the 14th. The detail of Plauen arrived and one hour later the detail of Zwickau arrived. I conversed with Muenzch and told him that 189 of my prisoners were missing. He says, "You did a fine thing there". He had orders that no prisoner was to be allowed to fall into enemies' hands. During the afternoon, I handed my detail over to him.

(Roller-Direct)

Q What duties did you undertake then?

A I stayed with the column and then made connections to get vehicles and made connections with the railroad company for a transport and also made it my duty to find places to take rests and to make quarters. On April 15th, the march went on to Johann Georgenstadt. Before the march commenced, I conferred with the Reich railroad company and the ortsgruppenleiter. I asked the ortsgruppenleiter for vehicles to transport the sick prisoners. Since he could not give us any vehicles, we left the sick prisoners with the ortsgruppenleiter. During my absence, Sergeant Muensch had the guards fall in, in his capacity as transport leader, and proclaimed several orders. I wasn't present when these orders were given. Shortly thereafter, I arrived at the place of rest and found out from my guards about the orders which he had given. Muensch issued the following orders: As of to-day, he took charge of the whole transport. We didn't lose the war yet. We are still soldiers and we still obeyed orders. No prisoner will fall into the enemies' hands. Every prisoner who cannot go along on the way will be shot to death. He threatened the guards he would eliminate any who would not carry out his orders. This day I was with the transport for about one hour in the morning. Then I drove ahead to scout out the roads and to find a place in which we could rest. I received the column and led them to the place of rest. In the afternoon, we marched ahead. I drove ahead to Johann Georgenstadt and looked up the camp which was located there. I then drove towards the column and led them into Johann Georgenstadt.

Q When did you arrive at Johann Georgenstadt?

A I don't know the exact time; it was in the evening, it could

have been four or five o'clock.

Q What date approximately?

A The fourth month, the fifteenth day.

Q When did you leave Johann Georgenstadt?

A The 16th, we marched away from Johann Georgenstadt. The 16th was actually supposed to have been a rest day.

Q Continue with the rest of the march.

A Johann Georgenstadt received evacuation orders on the 16th, and the camp had to be evacuated in a hurry. The prosecution witness Hommel stated before this court that before the march started, four prisoners had been shot to death. He stated that I had been present in the courtyard of this factory building at the time in question. I entered the factory building in the morning at 8:00 o'clock, or shortly before that. Everything was still quiet; there was no prisoner or anyone else in the courtyard of the factory. I then talked to Sergeant Muensch and told him that I would go to the railroad station and find out about the five cars they had promised us the previous night, that they would have ready for us to go in. We wanted to let the sick prisoners be transported by train. I returned from the station at about 9:30 o'clock. When I entered the factory courtyard, everybody was busy. Everyone was on their feet; the prisoners were in the yard. And I found out that the camp of Johann Georgenstadt had received its evacuation orders. Muensch told me that he had taken care of the sick people and that they would be taken only by the the transport column from Johann Georgenstadt. Whereupon, I immediately left the factory to secure vehicles for the march. I received a five ton truck there and I loaded the baggage on the outside of the factory building which had been placed in a parking space there. We then drove to the factory building. A trailer was taken along. Then the detail left Johann Georgenstadt.

(Roller-Direct)

Q Where were you when the detail left?

A I had a ride at the entrance of the factory when they had their formation. I didn't enter the factory courtyard any more. From the morning until about 11:00 o'clock, I only was in the factory yard for fifteen minutes, which was about 9:30 to 10:00 o'clock.

Q What time did the transport finally leave camp Johann Georgenstadt?

A It was around 11:00 o'clock noon, I believe.

Q Discuss the march now, from that time on?

A That day I stayed with the column, perhaps half an hour, since it was noon. I then drove ahead to find quarters for the column. We marched in the direction of Karlsbad. The next night, the second night, we quartered the column in a prisoner of war camp which had been evacuated and which was in the vicinity of Karlsbad. From here, we marched on in the direction of Marienbad. April 20th, at about 8:00 o'clock in the morning, there was an air attack. The detail Langenfeld was the point of the column. The transport was stretched over quite a distance because during that time you had to count on air attacks between Marienbad and Karlsbad. In the morning at 8:00 o'clock an air attack took place very surprisingly. No one heard the warning that there was danger of air attacks when we marched on the street. The attack was a surprise. I was ahead of the column, about 50 metres, and I saw the first plane approaching us to our (illegible) front coming over the forest. This plane flew towards the column and alongside the road and flew down the column. When I sighted this plane, I immediately yelled back "Everyone hit the ground". But only half of the detail took cover; the other half of the column was still on the road. A short distance behind the first plane, a second one approached. It was only a short moment. The second plane opened fire. Not the whole column was strafed; but only the last part. About

(Koller-Direct)

the last ten or fifteen ranks. The plane commenced firing at a distance of about 200 metres. The latitude of the plane was about 30 to 40 metres. Since the plane came from the side, all rounds that were fired hit the same spot. For that reason, we had 47 casualities dead. While the plane was firing, I ran back since I was in front of the column and was not in danger. I immediately ordered the road to be evacuated. Among the first prisoners who they carried away, was found a dead SS man. I then immediately went to the next village, consisting of three or four farms and contacted the Wehrmacht report station in Marienbad immediately. I inquired there what should happen to the SS man. The answer I received then was that all the corpses would have to be handed over to the next local police. All valuables and personal belongings of the soldiers would have to be listed and this also would have to be handed over to the local police. I asked the burgomeister, or mayor, of that village to take charge, but he could not do it and sent a representative along. I returned to the spot and handed the valuables, papers and personal belongings of the soldiers over to the farmer. Here the prosecution witness, Vizan, stated that I had shot to death, hurt, wounded prisoners. This statement, this testimony, is not true. Altogether there were only five wounded. I gave orders to the farmer to take away this one wounded because he only had light injuries. There were two prisoners lying at the spot of the incident who were severely injured. Those prisoners were wounded so severely that it was impossible to take them away. The fire from the weapons aboard the plane had torn open their stomachs. The intestines of the prisoners were hanging out, mixed up with the clothing and the excrements were running all over the body. The only thing I was able to say was that one prisoner still had a quivering in his face and the other man still had a quivering in his hand. Because there was no doctor available and because of the area we had reached, no help could be expected, then the next time I took my pistol.

(Keller-Direct)

A pulling through of these prisoners was impossible. Whereupon, I fired one shot at each. Then I again joined the column. There were two more wounded prisoners with the column. I wanted to hand those over to the burgomeister in the next village. The burgomeister, as well as the population, refused to take them and directed me to the next village because there was a police station. I myself was behind the column with these two prisoners, -- 100 or 150 metres. The wounds of these prisoners were that one of them had a shot through the shoulder and the other one, -- his arm had been shot off. That is to say, his arm was still dangling there. I handed these two prisoners over to the police in the next village. They were bandaged there, according to regulations. About the 21st, we reached Tachau in the Sudetenland. From here, I tried to contact Flossenburg. But I found out there, from the burgomeister, that during the course of the day, Flossenburg had been evacuated one or two days back. I then re-joined the transport. When I reached Albertsdorf, I found that the detail of Zwickau and Plauen had been quartered there. Since it was only a small village, the detail of Zwickau marched on to the next village. After about half an hour, I drove over to the next village and communicated with Muensch and told him that Flossenburg had been evacuated. During the conversation, I told him that there was only one possibility and that was to dissolve the transport. He said that he would deactivate but that no Jew, Pole or Russian would fall into the enemies' hands. We then talked about the march of the next day and said that we would meet each other at the cross road between those two villages and then return to Albertsdorf. During the evening, I thought about the conversation I had had with Muensch and decided that I would not march with Muensch any more as of this date. For that reason, I had my detail fall out one hour earlier than had been stated. I called the guards together. I then made my plan known to them, the one I had formed the

evening prior to that. I told them that I intended to deactivate the detail within the next two days. That I would let go of the prisoners in small groups throughout the various forests. I therefore told the guards that it would be thereupon forbidden to fire at any prisoners who escaped. I told them this twice, "I don't want anyone to fire upon a prisoner who escapes." We marched them and I myself let go of the first three or four groups of prisoners. Again, I drove ahead of the detail to find our quarters for the next night. I gave orders to the column eldest to go ahead and release more prisoners. I told him, however, that he wasn't go let go of too many at a time so that the prisoners would not do any damage to the farms in the vicinity, because there was the possibility for them to break in and to steal if they wanted to get along, so that if they were in a small group, they could not be remanded as easily. In the evening of the same day, the detail leader of the detail of Zwickau arrived in the same village in which I was quartered for the night. That was April 22nd. He just came with his guards. The only conversation I had with him was the following: He said that I had done a bad thing; that the whole territory there was flooded with prisoners. My answer was: "Perhaps it is better than you have done it". The next day I carried out my deactivation of the detail and two or three more groups of prisoners were released. At about noon, I divided the remaining prisoners up into two halves. I told the guards to take these prisoners over to the forest and woods and have them sit down there and take a rest, and I told him and them, that they were free people, but that no one was to leave the forest before evening, because this whole territory had been occupied by the enemy. I myself led the other guard and the remaining prisoners into another forest, took them in the woods about two kilometres further down the road and released them there. I marched 20 more kilometres

that day with my guards. There were four German prisoners, a Pole, a Russian and a Frenchman still there. I gave a paper of release, a certificate of release from the camp of Langenfeld to the Germans; I gave 20 marks to each one and released them the next morning. I went ahead with the guards in the direction of Eisenstein. I divided the group of guards up into four groups and gave them marching orders and told them to try and get through any way they could into Bavaria, in the direction of Dachau. Upon the deactivation of the 22nd, I had sent 22 guards away, so that I had 28 guards left in Eisenstein. I myself went through in the direction of Winterberg, Linz, and Salsburg. I was taken prisoner myself between Linz and Salsburg, at Timmelkimm.

Q When were you placed in confinement, Roller, in connection with this case?

A May 23, 1945.

Q When was it that you were taken prisoner by the Americans?

A May 4th, I was taken prisoner.

Q What year?

A 1945.

DEFENSE: You may cross-examine him.

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You belonged to the death head unit of the SS, did you not?

A I was under the direction of the staff of the headquarters in Flossenburg. I never wore any insignia of the death head division. In October 1944, the members of the guards battalion got double swastikas to wear.

Q Are you telling this court that you never at any time wore the insignia of the death head on your uniform?

A I never wore any deaths head.

Q What was the insignia of the death head unit of the SS?

A They were a death's head.

Q And you never, at any time, were connected with the death head unit of the SS, is that correct?

A I had some connection with them allright, because I belonged to the Flossenburg Concentration Camp.

Q Were all the SS in Flossenburg Concentration Camp connected with the death head unit of the SS?

A I don't know that.

Q While you were in Flossenburg and connected with the out camps of Flossenburg, did you see any of the SS personnel wearing the insignia of the death head unit of the SS?

A None of my men; but I saw various individual people in the camp of Flossenburg wearing it.

Q Where did you receive your training for the concentration camp duties?

A I had my training from the 20th of September to the 5th of October in Flossenburg.

Q Were you ever stationed at Dachau?

A No.

Q Were you ever stationed in the vicinity of Dachau?

A No.

Q When were you married, Roller?

A In 1935.

Q Was that the first time?

A Yes.

Q Now you were the senior SS officer at Langenfeld, were you not?

A I had the highest rank there; but I wasn't an officer.

Q And as such, you were in command of the Langenfeld camp, were you not?

A Yes; I was responsible to the commandant of the camp, 1st Lieutenant Koegel.

Q And being senior in command at that particular camp, you were responsible for the maintenance of the prisoners, were you not?

A Yes.

Q And you were responsible for their health , were you not?

MR. HALL: I do not know exactly what the prosecution is leading into; but if, at this time, it is the intention of the prosecution to proceed into the conditions at Lengenfeld itself, I object to this line of questioning. I object for two reasons: First, to the best of my knowledge, the situation at Lengenfeld was not discussed by the prosecution's examination of witnesses. And secondly, it was not discussed by me on the direct examination.

PROSECUTION: In reply to that, if it please the court, this man is one of the accused in this case. He has taken the stand in his own behalf and I have the right to cross-examine him as to any matter going to his guilt or innocence of the charge that has been preferred against him, and for which he has taken the stand and testified concerning.

MR. HALL: He took the stand and testified concerning the details of this march and that is all. Of course, I asked him who was the commanding officer of Lengenfeld and brought that out on direct examination to show his background as part of his personal history; but that doesn't open up the whole situation of Lengenfeld to the prosecution. On the strength of the evidence the prosecution has presented, I have not called for one single witness to testify as to the conditions at Lengenfeld, nor has the prosecution produced any. If that is their purpose at this time, I submit to the court, they are going into a brand new field of testimony.

PROSECUTION: It would be passing strange, may it please the court, if counsel for the defense have the right to show the back-

ground of this accused and the prosecution would be prohibited from also showing the background of this accused. This is merely only one of the situations that justify this court in permitting this line of questioning.

MR. HALL: The prosecution had seven or eight weeks to present its case against the accused Roller, but they did not see fit to take up the question of the conditions at camp Langenfeld in any way. They discussed the evacuation march at Langenfeld and we prepared our case in that same tenor.

PROSECUTION: This man is charged, may it please the court, under one charge. This is not like a court martial case where an accused has the right to elect to testify concerning one and only one specification and thereby limit his cross-examination to that one specification. Here, we have only one specification that charges this man with participating in a common design to subject these prisoners to killings, to beatings, to tortures, to starvation, to abuse and to indignities; and if the questions which I asked him are within the purview of the particulars of that charge, then they are certainly proper. He has taken the stand and subjected himself to cross-examination as to his guilt or innocence of the particulars of this charge.

MR. HALL: That is perfectly true. I did not object on the grounds that the questions exceeded the charges. I objected on the grounds that the questions exceeded the direct examination. I will even go further and say they exceeded the scope of the evidence which the prosecution offered itself in presenting its case to this court. Now, we have heard a lot of talk about speeding up this case. As I understand this line of questioning, it means we have to start all over again going through Langenfeld from top to bottom, having witnesses come for both sides, and starting all over again. And I can think of no better illustration

than those facts. That this kind of examination exceeds the scope of direct examination and goes beyond the scope which this court should allow the prosecution.

PROSECUTION: There is no question about speeding up the case. If the prosecution did not cross-examine at all, I am perfectly satisfied that the defense would be just as happy if we replied with no questions when cross-examination was presented to us. But as I understood it, this court is seeking after the truth of this charge which has been presented to it for examination, and that as expediously as would be consistent with the proper presentation of facts before this court. Counsel has stated that he has objected on the ground that it exceeds the scope of cross-examination and on the ground that it exceeds the scope of the charge. The counsel has failed to point out to the court the fact that the two run hand in hand. That the charge sheet determines the matters upon which this man appears before this court. And it has never been considered necessary to present further witnesses against a particular individual who stands charged with an offense. Under this charge sheet, he stands before this court, charged with mistreatment of prisoners at Langenfeld, as well as on the evacuation march from Langenfeld; and inasmuch as counsel has gone into the fact that this man was incommand at Langenfeld, we have a perfect right to show what the nature of the command that he exercised there at Langenfeld was. As it stands at the present time, on the testimony of this witness, Langenfeld may very well be a sanitorium that was attached to Flossenburg. We have a perfect right to show what sort of command was exercised there by this witness, this accused, while in such command. He has no right to go into a part of the transaction and thereby say it is done for the purpose of showing the background, and then exclude the prosecution from showing what is the rest of the background.

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MR. HALL: First of all, this court has ruled on questions of cross-examination exceeding the scope of direct examination on many, many occasions. If we are to rely solely on the charge sheet, as the determination of what is proper examination, I submit to you that there is no question whatever but what the prosecution could not ask. I will agree with him on that. This charge sheet of the type that is used in war crimes is so broad, so general, it throws in the whole sink. I cannot think of any question, that on his rule, could not be asked on cross-examination, when a man merely says he was present in Langenfeld, or wherever the place may be. But we have been proceeding here on a rule, as I understand it, that the cross-examination will not be permitted to exceed the scope of the direct examination; and I submit that to start in on the line of testimony that the prosecution is doing now . making it necessary to get more witness, is a brand new issue in this case.

PROSECUTION: May I answer to that, -- it is the last thing I will say. This accused, at the time he took the stand knew that when he did so, he would be subjected to questions going to his guilt or innocence of the charge that was placed against him, and that is a rule, and that is a rule that I am certain this court has been going by. I know it is the desire of this court to abide by the law when they are ruling on questions. And I think it should be clarified so that the court may rule properly on it.

PRESIDENT: The court would like to know, Mr. Prosecutor, whether you have definite evidence that Langenfeld was an out-camp of Flossenburg?

PROSECUTION: Sir, he has already stated that on his examination.

PRESIDENT: The court demands to know if the witness has made a statement of that nature.

ITNESS ROLLER: It was an out-camp of Flossenburg.

PRESIDENT: The court will be closed.

(Whereupon the court was closed at 1650 hours and opened at 1710 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, and Lipinski, who are sick in hospital. The interests of the named accused are being taken care of by counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: The objection of the defense counsel, Mr. Hall, is overruled. The court will adjourn until 9:00 o'clock to-morrow morning.

(Whereupon the court adjourned at 1712 hours.)

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Legal Form No. 8

V-174

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

5265 - 5341 Incl.

Case No. .....

*[redacted] Military Court.
*General

Place DACHAU, GERMANY

Date 16 October 1946
0900 - 1700 Hours

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

[redacted]
WITNESSES:

ALBERT ROLLER

KATHERINA PINTER

HEINRICH GUTH

ALFRED SENDEL

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH FLICKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

18 OCTOBER 1946 0900 - 1700 hours Pages 5265 - 5341 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
ALBERT ROLLER		5265	5288	5289	5290
KATHERINA PINTER	5298				
HEINRICH GUTH	5301	5308	5313 5314	5313 5317	5315
ALFRED SENDEL	5321	5332	5338	5339 5340	5339

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
P-75	Statement by Albert Roller	5267	

Camp Dachau, Germany
18 October, 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present; all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Dr. Hagelberg, who is absent on business of the accused; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jahnbith, Lipinski and Eisbusch, who are sick and whose interests are being taken care of by their counsel. If there are any spectators present in the court room who expect to be called as witnesses, will they please leave the court room.

PRESIDENT: Continuation of cross examination?

ALBERT ROLLER, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (continued)

QUESTIONS BY PROSECUTION:

Q As master officer of Langenfeld, you were responsible for the health of the prisoners, were you not?

A Neve . Two doctors were present for the health of the prisoners.

Q And these two doctors reported to you, did they not?

A These doctors made their sick reports which I related to Flossenberg.

Q And were those prisoner doctors or SS doctors?

A Two prisoner doctors. Outside of the two prisoner doctors there was the factory doctor who visited the camp once or twice weekly.

Q You had approximately 800 prisoners there, did you not?

A Yes.

Q They were Poles, Russians, Czechs, were they not?

A Yes.

Q You also had some Jews there, did you not?

A Also Jews were there, yes.

Q During the time that you were in command of Langenfeld, approximately how many prisoners died there?

A I cann t give an exact number because I had cases of escape. According to my estimation approximately 120 to 150.

Q You started out with approximately 25 guards, did you not?

A Yes.

Q And you finished with approximately 52 did you not?

A Yes.

Q This detail was designed to supply workers for a Junkers factory, was it not?

A Yes.

Q And they worked 11 hours a day at least, did they not?

A Yes.

Q The gross amount of bread they received a day was 400 grams, is that correct?

A Bread, yes.

Q Towards the end they got approximately 400 grams of bread per day, is that correct?

A No, during the last period it was daily 460 grams.

Q In other words, the amount of the bread ration was not changed up to the time of the evacuation of the camp, is that correct?

A The bread ration changed. In the beginning we had 500 to 560 some odd grams at least. It was over 500. I don't know the authorised ration, I only know that I received the extra ration which was granted the workers who worked overtime and, including this ration, the ration in March was still 485 grams.

(Keller - cross)

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Q Your recollection as to the amount of bread that these prisoners received was better on May 23, 1945 than it is at the present time, is that not true?

A The bread ration in May 1945 was never higher than I stated now.

Q Your recollection is that the bread ration that the prisoners received was better on 23 May 1945 than it is now, is that not correct?

A No.

Q Do you recollect making a statement at the time you were arrested in Wertheim in May 1945, to be exact on the 2 rd May 1945?

A Yes.

Q At that time isn't it a fact that you stated that in the beginning the prisoners received 480 grams of bread and in the end 430 grams of bread?

A I stated that they received 480 grams. I don't know anything about 430 grams. I cannot recall having stated 430.

PROSECUTION: Will the reporter mark this prosecution exhibit No. 75?

(The document referred to was marked prosecution exhibit No. 75 for identification.)

Q I have a document here and ask you to state whether or not that is your signature?

A Yes.

Q I call your attention to this sentence in the statement?

A The prisoners received 480 grams of bread in the beginning and towards the end about 430 grams. I know definitely that in March they still received 480 to 485 grams of bread and that the April period started on the 9th April and that I left the camp on April 12, and I know that during this period the bread ration was

(Roller - cross)

smaller. I can only have meant that they received 50 grams less during the last month.

Q But you did make that statement?

A That statement I made, yes.

Q How many barracks did these prisoners live in?

A These prisoners lived in three barracks, the kitchen, personnel, the prisoners, the prisoner doctors. The camp eldest, camp capo and two medics lived in the fourth barracks.

Q Approximately how many prisoners occupied a single bed?

A Each prisoner had his own bedding.

Q These were large barracks, were they not?

A These were the normal barracks, like they are in the camp here only they were not as six big barracks, but single rooms.

Q In other words, each prisoner had a single room, is that correct?

A No, the barracks had a corridor in the middle and to the left and right were rooms.

Q You left Langenfeld on the 13th April, did you not?

A Yes.

Q At that time you had these prisoners who consisted of Russians, Poles, Jews, Czechs and other nationalities, did you not?

A Yes.

Q At the time that you left, did you have a meeting with your guards prior to the departure of the camp?

A Yes.

Q At that time did you give the guards instructions as to the treatment that the prisoners would receive on this march?

A No.

(Keller - cross)

Q You gave no instructions then as to the duties of these guards on the march, is that correct?

A Nothing at all. On the 13th June on my return from Schoenheide and after the work had been discontinued in the factory, I called the camp eldest and the camp ca e together and I told them that we would march off the next morning. They had to see to it that the barracks were left in a clean condition and that each prisoner could take two blankets along. I then issued 10 or 12 army bands for the camp police, four Germans, two or three Czechs and the rest of them Poles. Then I called the remainder of the guards and told them that we would evacuate the camp at the very latest the next morning, that they were to pack their things only as much as each man could carry himself, that they wouldn't have any vehicle to load the bag age and transport the bag age that way. The factory had only three vehicles, three trucks and they were on the way the same place to get materials.

Q Now you mentioned baggage, that was the baggage of the SS was it not?

A Yes, the baggage of the troops, their field pack and their clothing.

Q After this conference that you had with the guards over in Zwickau, did you pass on to your guards orders that you received on the march from Moench?

A I didn't receive orders from Moench in Zwickau.

Q Where was it that you received your orders from Moench?

DEFENSE COUNSEL: May I have permission to remove Heinisch to the hospital for attention?

PRESIDENT: Permission will be granted.

(Whereupon the accused Heinisch was excused and left the courtroom.)

ACCUSED ROLLER: I didn't receive any orders from Moench

(Roller - cross)

that I should have told the guards about.

Q Did you testify yesterday that Mönch was in command of this evacuation and being in command of this evacuation isn't it a fact that he gave you an order as to how this evacuation could be carried out?

A No. In Zwickau he merely told me I have orders that Zwickau Plauen would be evacuated and that the Zwickau Plauen details would meet in Langenfeld and would continue from there together. That is all he told me.

Q Did you testify yesterday that he also told you that none of the prisoners would fall into the hands of the enemy?

A Yes.

Q As a soldier, you passed that order on to your guards did you not?

A I didn't relay any orders to my guards. The instructions to the guards about the marching, this evacuation, were given to the guards by Mönch himself on the 15th.

Q There were two days, were there not, which you were in command of the march from Langenfeld and you told me that Mönch only arrived on the 15th, is that correct?

A In the evening of the 13th at 9 o'clock I marched away from Langenfeld and I marched all night and then late in the afternoon of the 14th, Mönch arrived so that I only had actually led the detail after one day.

Q At the time that you joined up with Mönch, did Mönch assume command of the entire column?

A Yes.

Q You were senior to Mönch, is that correct?

(Roller - cross)

A Yes.

Q And you had received no orders from Mtench, is that not correct?

A No, that is correct.

Q Would you explain to the court how it was that Mtench superseded you as being in command of that column?

A I cannot give any exact reason, but I assume that the reason that Mtench took command was that the commander had told him to take charge of the groups since he had been in the SS a longer time and I was not too well in with the commander because I had had 30 cases of escape in my camp and that I could not be on good terms with the commander, everyone can see. I can give an explanation to that statement.

On November 20th, 25th, the camp commander, a technical sergeant, sent me to Langenfeld to have me checked for the reason why I had so many cases of escape and I know from the remarks that the commander made towards me how he felt about me, even to reprimanding me, and he said 'you are sitting on your rifles up there otherwise something like that cannot happen'.

Q You never at any time received any orders from Mtench and yet you turned over your column to Mtench, is that correct?

MR. HALL: I object to that statement. He has talked about that already, that Mtench is in command and took command.

PRESIDENT: The objection is sustained.

QUESTIONS BY THE PROSECUTION:

Q You had been in the army since the early part of 1930 had you not?

A Since 1927.

Q As a matter of fact, you had been in the service much

(Roller - cross)

longer than Meench, had you not?

A As a soldier, yes.

Q Prior to leaving Langenfeld, how much ammunition did you issue to your SS guards?

A I didn't issue any ammunition whatsoever. A guard brought his ammunition along to the detail from the camp whatever he had 15 to 17 rounds, or others had 30 rounds and this ammunition stayed with the soldier. He kept it at all times.

Q How much ammunition did you have ?

A I had 7 rounds. I carried my own pistol. One round I lost in the winter in the snow so that I only had 6 rounds during the march.

Q How many rounds did you have at the time during the march when you were discharged?

A When I made out my release papers I had 4 rounds left. I handed my pistol, that 4 rounds, in at the end.

Q You didn't carry any ammunition with the exception of the 4 rounds that were in the pistol, is that correct?

A Yes.

Q Did you lead the column to Johann Georgenstadt or did you leave Meench to lead the transport to Johann Georgenstadt?

A Meench led the transport.

Q When you collected these vehicles for the transport of the baggage, did you receive orders from Meench to do that?

A No, I did that in my own interests.

Q Was that done prior to the time you joined the column of Meench or subsequent to that time?

A During the whole time. I tried before already to get hold of vehicles and carried this on throughout the whole march.

Q Did you get these vehicles after you joined Meench or

(Roller - cross)

before you joined Mueneh?

A After we were together.

Q How many prisoners were in this detail from Zwiekau?

A I don't know how many prisoners he had in his detail but there must have been 800 or 900.

Q There is no question about this order that no Jew, Pole or Russian was to fall in enemy hands, is that correct?

A He issued that, that is to say, I only heard about it from the guards.

Q What day was that that you heard about it?

A In the afternoon of the 14th when I told him that 185 of my prisoners were missing. He said 'that is a fine thing. Did you know none of these are supposed to fall into enemy hands', and he repeated that to the guards the next morning before the march started.

Q When was it that you arrived in Schoenheide?

A On the 14th.

Q How long did you remain there?

A From the 14th until the morning of the 15th.

Q And it was there that Mueneh told you that it was a fine thing letting these prisoners get away, is that correct?

A Yes.

Q Do you know a man by the name of BernhardGebauer?

A No.

Q Were the prisoners that you killed after this raid the only two prisoners that you killed on this march?

MR. HALL: I object to the question as containing a conclusion not supported by this witness.

RESOLUTION: I do not think that the question contains a conclusion that is not supported by the evidence inasmuch as

(Keller - cross)

his testimony concerning his conduct in respect of the two prisoners who were lying on the ground justifies the language employed. I do not think it calls for any conclusion at all. This question is based on facts which are in evidence. I think we are entitled to try this case and ask questions based on the testimony which this witness has given.

MR. HALL: The witness testified yesterday that these prisoners were lying on the ground, that they were practically disemboweled, that there was a quiver in the cheek of one man and a quiver in the hand of another man at the time of the shooting by the witness, and I respectfully object to the statement that the prisoners were killed by the witness.

PROSECUTION: May it please the court, in view of what counsel has just said, I was not sure that he said he shot. I was not sure that he said that he shot at them or whether he shot them, and in view of what counsel said, that he shot them, I submit that in view of the evidence, it is murder if he shoots a man who is still moving regardless of how near death he may be. For if the witness does any act which proximately contributes to cause the prisoner's death or hastens it, it is murder. It is fallacious reasoning to say that because two wrongdoers both do acts which proximately contributes to cause a man's death that one must go free because the misconduct of one alone would have produced death. The law is not that way. The law says that if the conduct of each proximately contributes to cause death, each is guilty even though the deceased would have died from the misconduct of either alone.

MR. HALL: I think it is apparent there has not been a meeting of the minds between counsel in this matter. My remarks are relative to whether or not the persons on the ground were dead

(Rollet - cross)

er alive prior to the shooting. That the muscles of the face of one man and the hand of the other man twitched doesn't necessarily mean that the individuals are alive. I presume that this court will require as evidence of any unlawful killing that the man was alive prior to the shooting and that he was shot after he was dead.

PROSECUTION: Dead men do not move, may it please the court. I think that when rigor mortis takes place it doesn't take place in such vigorous actions as have been described by the witness, but it is something that comes on gradually. I am not a doctor, I don't profess to be. As long as there was any evidence of human life there, I think that the witness usurped his functions in that this man had to put himself in the position of judging whether or not they were alive or dead, and I submit that he would certainly not have put a shot in these men if they were already dead.

MR. HALL: Whether a man is dead or whether he is alive is a highly technical problem. I don't think that any of us are specially qualified to determine that particular problem at this time. It is the function of the court to determine this question of fact.

PROSECUTION: The court has a perfect right to infer that SS men do not go around shooting holes in the heads of dead people.

PRESIDENT: The objection of the defense counsel, Mr. Hall, is sustained.

QUESTIONS BY THE PROSECUTION:

Q How many people did you kill on this march?

A I didn't kill anyone. I believe that I kept as a human being in this case.

(Keller - cross)

Q When you kept as a human being in this case, you mean that you killed this individual in order that he would not suffer any more?

A These people were so shot up and so torn apart by the ammunition of the guns operating; those planes that their stomachs were torn open and one man had his mouth open, the blood was running out of it and all you could see was just a quiver of nerves of the hands. I, as a matter of fact, went away from these people at one time and at a later time returned to them and could not see why they should suffer a death in torture.

Q So you put them out of their misery and suffering, is that correct?

A I cannot say that these people suffered any more.

Q Didn't you just state that you did not want these people to die in suffering and misery?

A I said that the man was not capable, was not alive any more, but the possibility existed that he might have come back to consciousness for a while and that he would then die in pain.

Q You didn't want him to die in pain?

A Yes, that is correct.

Q So you shot him, is that correct?

A I didn't shoot him to death.

Q What did you do?

A I cannot state that I shot him to death?

Q All right. Where did you aim the bullet at these different men?

A I shot both in the temple.

Q Those were the only two that you shot in the temple, is that correct?

A Yes.

(Roller - cross)

Q You were at Schoonhaide. Isn't it a fact that you went up to a school there and got some shovels for the purpose of digging a pit?

A No.

PRESIDENT: The court will take an half hour recess.

(Thereupon the court recessed at 1000 hours.)

Camp Dachau, Germany
18 October 1946

MORNING SESSION

(Whereupon the court reconvened at 1040 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Painter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. McKay, Mr. O'Connor and Dr. Engelhorn, who are absent on business of the accused; all the accused are present with the exception of Buddensieg, Oswald, Olschweski, Jakubith, Lapinski and Kisbusch, who are sick in the hospital, and whose interests are being taken care of by their counsel. If there are any spectators in the courtroom who expect to be called as witnesses, they will please leave the room.

PRESIDENT: Continuation of cross-examination.

CROSS EXAMINATION (continued)

Questions by Prosecution:

Q How many prisoners died at Schoenheide?

A Six or seven dead.

Q And they were buried there in the corner of the Tiergarten, weren't they?

A I don't know that.

Q Isn't it a fact, Roller, that while you were there, at Schoenheide, you told a sick man to get up and he was unable to get up because of the physical condition?

A No.

Q This man was a Pole and he didn't understand you and you spoke to a man by the name of Bernhardt Gabauer?

A No, I can't remember that.

Q Isn't it a fact, Roller, that this man, Bernhardt Gabauer, interpreted this order to the Pole in Polish and the Pole was unable to get up because of his physical condition?

A I don't know anything about that. I did not have a German as an interpreter.

Q No, no, this man was not an interpreter, Roller. This man who was acting as an interpreter was an Austrian.

A I don't even know an Austrian.

Q Isn't it a further fact that you directed this man, Bernhardt Gabauer, to take the number off this Polish man who was unable to get up?

A No.

Q After that, isn't it a fact, Roller, that you shot this man through the ear?

A No.

Q When I say 'through the ear' I mean from the point of the ear through the head. Isn't that a fact?

A No.

Q Isn't it a further fact that you shot fourteen prisoners at Schoenheide?

INTERPRETER: Shot to death or shot at?

PROSECUTION: Shot to death fourteen prisoners.

A I never fired. Mr. Prosecutor, I am that much of a soldier that I will stand for the things I have done.

Q Do you know how many Poles died at Schoenheide?

A No. I only know that we had six or seven dead.

Q What was it that prevented Muench from killing you for disobedience of his orders?

A I don't understand the question.

Q All right. The question is this, Keller - there was an order that no Jews, Poles or Russians were to fall into the enemies' hand, is that correct?

A Muenich issued the order.

Q That is right. I want to know what was it that prevented Muenich from killing you for disobedience of these orders?

A What prevented Muenich to kill me?

Q From killing you. What prevented Muenich from killing you for the disobedience of these orders.

A I don't understand what prevented Muenich from killing me.

Q That's what I want to know. What was it that prevented him from killing you when you failed to carry out his orders that no Jews, Poles or Russians were to fall into the enemies' hand?

A I did not carry out any of Muenich's orders.

Q That is exactly my point. Now I want to know because you didn't carry out those orders, what was it that prevented Muenich from killing you for failing to carry out his orders?

A He didn't have any reasons to kill me because he didn't give me any orders and I wouldn't have taken any orders from him.

Q You turned over the guard to Muenich, did you not?

(Keller-Cross)

A Yes.

Q You were part of the group that came under the command of Muenich, were you not?

A No, not I personally. I would have never subordinated myself to Muenich.

Q You did do it, didn't you?

A No. I turned over my detail and the guard to Muenich but I did not subordinate myself to him.

Q You continued along with that same transport?

A Yes, I voluntarily went along.

Q You, thereafter, gave discharge certificates to certain members of that transport, didn't you?

A I only gave the discharge papers then when I had taken over my own detail again.

Q Where was Muenich at the time you were giving out these discharge certificates.

A Muenich had gone ahead the 23rd. I had deactivated my detail and Muenich drove ahead.

Q That was still your detail then, is that right?

A When I gave out those discharge certificates I only had four men left.

Q Do you remember whether or not the rest of the column had departed at the time you gave out these discharge certificates?

A They had gone. At noon, about 11:00 o'clock I divided up my column, sent one part into the right into the forest and took the rest of them myself, two kilometers

(Roller-Cross)

further down into the woods and only in the evening of the same day I gave these discharge papers to the prisoners.

Q Then you were still in command of the column when you divided it up, part to the right and part to the left, were you not?

A Yes. The 22nd of April I again took charge of the detail because I did not agree with the deactivation as Muenich had planned it.

Q What was the deactivation as Muenich had planned it?

A Muenich only told me that he would deactivate but that no Jew or Pole or Russian would fall into the hands of the enemy, and since I had more than 300 prisoners yet in my column I told him I wouldn't go along with that. I did not tell him that; I said that to myself; I had that on my mind. I said to myself, "I am not going to do that. I don't know what he has planned."

Q Why didn't you tell him that? You were his senior?

A I was his senior, yes.

Q Then why didn't you tell him that?

A The details were in two villages at that time. I returned to my detail that day and when I was back there I said to myself, "No, I am not going to do that."

Q What was that date?

A 21st. I then marched with my detail myself on the 22nd and deactivated on the 22nd and 23rd.

Q But between the 14th of April and the 21st of April you did approve of the method that Muenich handled the column; is that correct?

A No. I was never present when people were shot to death. I had stayed away from that affair.

Q Were people shot to death on that transport?

A Yes. During this transport prisoners were shot to death.

Q Approximately how many were shot to death?

A I don't know that because I didn't see it. The prosecution witness, Vizan, stated here that prisoners were shot in groups of 10, 12 or 15. I don't believe that because people certainly would have told me that. That single prisoners who do not go along were shot to death, that is a fact.

Q And that continued for the time the march began up until its termination?

A No.

Q When did it start?

A That was the detail Zwickau that started that. It started around the 15th. It was only one day, and on the 16th the sick prisoners were handed over to the camp of Johann Georgenstadt and from thereon only single cases occurred with the exception of the air raid which was suffered by my column.

Q Who was the SS man that shot at the airplane that brought about that raid?

A Mr Prosecutor, that is an error. These are the facts -- after the shooting by the plane was over, one

(Keller-Cross)

shot was fired, no one knew at what target this shot was fired, whether it was fired at the plane or someplace else. I only know I yelled at the guard, "Stop that nonsense, stop that firing." No shot was fired before the attack and it is also a fact that the pilot could not hear a shot fired by someone on the ground while he is at a distance of 200 meters away at the side when he starts his firing.

Q Roller, did you at any time exercise command over that column between the 14th day of April and the 21st of April?

A No.

Q You did take over 300 prisoners on the 21st of April again, is that correct?

A Yes.

Q How many guards did you have at that time?

A I started out from Lengenfeld with about 40 guards. Two guards fell ill and were taken to the hospital and one or two who had bad feet, stayed behind. Where they were taken to I don't know. So that there were about 42 or 43 guards left.

Q By what authority did you assume command of this group of prisoners on the 21st of April?

A On my own responsibility I took over the command again.

Q In other words, you could exercise that responsibility at any time you wanted to because you were senior to Muench, is that correct?

(Roller-Cross)

A No. Muench had received orders by the Commandant that he was in charge of the column. Only the day when we found out that the final destination, Flossenburg, could not be reached any more and Muench decided that he would not let anyone of these prisoners fall into the hand of the enemies, I said I wouldn't go along with that.

Q The same thing had been taking place, had it not, Roller, prior to the 21st of April, with respect to those prisoners who weren't able to continue the march?

A Yes.

Q But you were willing to go along with that, is that correct?

A. Willing? I volunteered for that to get ahead with the column and to support the prisoners, to aid them. I was not only to assist Muench, the transport leader, but it was also good for the prisoners, to assist them, that I stayed with them.

Q Why was it you didn't prevent this shooting of prisoners who were unable to continue the march?

INTERPRETER: Shoot or shoot to death?

MR. DENSON: Shoot to death.

A. This man had his orders and he was carrying out his orders. If I had wanted to go against this I could have done that only by use of a weapon. I would have had to do away with Muench first and then take over, but I was still soldier and I won't go against any orders that are given to be strung up myself later on on the next tree. This

(Roller-Cross)

man, Muench, issued the orders. He had received them first and he was responsible for them. Mr. Prosecutor, there is no reason for me to push this onto someone else. If I had issued those orders I would stand here and tell you, "Yes, I did," and take the responsibility for it.

Q What I am trying to understand, Roller, is this - how it was possible at one time that you went contrary to the orders of Muench with respect to the Jews, Poles and Russians, but how it was you did not go contrary to the orders of Muench with respect to these individual prisoners who were unable to continue the march. Can you explain that?

INTERPRETER: Can I repeat the question to him?

MR. DENSON: Yes, please.

(Whereupon the interpreter repeated the question to Roller.)

A. I myself was never present when these people were put to death.

Q You knew it though, did you not?

A In the evening I found out that Muench had shot several to death again.

Q Based on that knowledge, would you now explain to the court why it was that you were unwilling to go against the orders of Muench on that occasion but were willing to go against the orders of Muench with respect to the Jews, Poles and Russians.

A I don't understand the contents of the question.

Q You testified, Roller, I believe, that you knew these prisoners who were unable to continue the march were shot to death, is that correct?

man, Muenach, issued the orders. He had received them first and he was responsible for them. Mr. Prosecutor, there is no reason for me to push this onto someone else. If I had issued those orders I would stand here and tell you, "Yes, I did," and take the responsibility for it.

Q What I am trying to understand, Roller, is this - how it was possible at one time that you went contrary to the orders of Muenach with respect to the Jews, Poles and Russians, but how it was you did not go contrary to the orders of Muenach with respect to these individual prisoners who were unable to continue the march. Can you explain that?

INTERPRETER: Can I repeat the question to him?

MR. DENSON: Yes, please.

(Whereupon the interpreter repeated the question to Roller.)

A. I myself was never present when these people were put to death.

Q You knew it though, did you not?

A In the evening I found out that Muenach had shot several to death again.

Q Based on that knowledge, would you now explain to the court why it was that you were unwilling to go against the orders of Muenach on that occasion but were willing to go against the orders of Muenach with respect to the Jews, Poles and Russians.

A I don't understand the contents of the question.

Q You testified, Roller, I believe, that you knew these prisoners who were unable to continue the march were shot to death, is that correct?

A Yes.

Q Now, I ask you this- with that knowledge can you explain to the court why it was that you were able to go contrary to the orders of Muench with respect to the disposition of the Jews, Poles and Russians but you were not willing to go contrary to the orders of Muench with respect to these individual prisoners who were unable to continue the march?

A Those were Russians, Poles and Jews in the beginning, too. The prisoners were always the same.

Q- Then I again ask you to explain why you were not willing to go contrary to the orders of Muench with respect to the killing of these individuals who were not able to continue the march?

A Mr. Prosecutor, when the march started it was quite different from what it was at the end. I couldn't determine the results or what was plain in the beginning. I was 't able to see all that in the beginning. I did hear from a guard in the evening or from a prisoner that Muench had one or two or several prisoners put to death today. I said to myself that he was the responsible man, that he had to carry the responsibility for that and in case he should have to return to his camp and report the strength of his prisoners, he would be the man that would have to account for it. And when I saw he could not reach the camp and that the shootings became too numerous and I could not tolerate having 200 or 300 men put to death, I said I couldn't continue on anymore and would take charge of my own detail. Because from that point out I saw we could not reach any headquarters anymore.

Q Then, from your failure to do anything prior from the date you took over these 200 prisoners, are we to infer from that that you were willing to go on with this killing of two or three prisoners who could not continue the march?

A I did not agree to it but at that time I couldn't know that we wouldn't reach any official headquarters anymore and if I had gone against this and we would have reached any headquarters I would have to reckon that I would be put against the wall or else strung up in the tree.

Q Then the shooting of these individuals, Jews, Poles and Russians, who weren't able to continue the march was merely part of the big order, to the effect that no Jew, Pole or Russian was to fall into the hands of the enemy, is that correct?

A That I can't say. I don't know that.

Q Did you ever remonstrate with Muench about the killing of these individuals Jews, Poles and Russians, on the march, who weren't able to continue?

A No.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. HALL: May we have about a three minute recess?

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a recess in place after which it reconvened)

(Roller-Gross)

PRESIDENT: The court will come to order. Redirect examination, Mr. Hall.

REDIRECT EXAMINATION

Questions by Mr. Hall:

Q Roller, you mentioned that the police in Lengenfeld were urging you and hurrying you to get out of the town with your transport?

A Yes.

Q What was the occasion for that?

A The burgermeister, the police, and the factory manager, pushed me and told me that the Americans had already reached or taken Zwickau. When I left Zwickau in the afternoon I heard that the American point had reached a point about four kilometers away from Zwickau.

Q How far away was Zwickau from Lengenfeld, approximately?

A Twenty-two to twenty-five kilometers.

Q Do you have any other information that you heard concerning the approach of the American forces?

A No.

Q Approximately how many prisoners did you liberate?

A At the end I freed approximately 300 to 330 prisoners.

DEFENSE: That is all.

RECROSS EXAMINATION

Questions by prosecution:

Q Just one question. During what period of time was it, Roller, that you were the commanding officer of Lengenfeld?

A Detailed leader from the 12th of October to the 15th of April.

Q That is that detail in 1944?

A '44 to the 13th of April 1945.

EXAMINATION BY THE COURT

Questions by president:

Q Roller, was it customary in the Wehrmacht for a junior non-commissioned officer or a junior commissioned officer to take command over a senior?

A That never occurred in the Wehrmacht.

Q Was it customary to follow a practice of that nature in the SS?

A That was up to the camp commandant. May I be permitted to add that in November, '44, an order by the Feuhrer was issued which told everyone, including the youngest soldier- I can't give the exact contents, the exact wording of the order - but it was just about as follows: every soldier has the right to take charge or to be in command of, in case a superior officer wants to abandon a position, and if the junior feels that he should take steps himself to take over and to hold the position, the superior has to relieve himself of his command and subordinate himself to the junior. I myself told the guards about this order that came out either November or the beginning of December.

Q That order referred to actual combat, did it not, not a garrison duty or training duty?

A In this case it was not garrison duty anymore or training duty, but this territory was battle area. When I released these prisoners, freed these prisoners, in small groups, a guard could have stepped up at anytime and said, "Halt, stop, that won't be done. I'm taking charge now."

Q When you started this march did you have any idea of where the American troops were?

A I only knew that they were in the vicinity of Zwickau and I was told that they had taken Zwickau.

Q Did you receive any direct order from Commandant Koegel to turn over your column to Muench?

A No, I did not receive an order.

Q Did Muench have a written order to that effect?

A I did not see a written order. I don't believe that a written order was issued in this case.

Q The court understands from your testimony that you turned your column over to the command of Muench on April 14th and then reassumed command on the 21st of April Is that correct?

A Yes.

Q Do you have any additional evidence to put before this court that Muench was actually in command of those three columns during that particular period, outside of your own statement before the court?

A I don't have any further evidence as to this point but I believe that the prosecution has proof that this is according to facts.

PRESIDENT: Any further questions by members of the court?

Questions by Law Member:

Q What do you mean by that last statement?

A I surely believe that prosecution witnesses stated Muenich himself announced that he, Muenich, would take charge of the transport and guards.

Q Do you recall who the prosecution witness was that testified to that?

A I don't know. I assume that that was stated.

Questions by the President:

Q What became of this Sgt. Muénich?

A I don't know that.

Q When w s the last time you saw him?

A I saw him the 23rd of April 1945 for the last time.

Q Are there any other people around here who were in that column?

A Here? No.

Q In Sonderlager?

A The prosecution witness, Vizan, the camp eldest, Schulmeister, and two guards but one of them took sick on the way and went to the hospital and I don't know how far they went.

Q Are they here in Sonderlager?

A Yes.

Q And they were on that march with you?

A. Yes.

Q They could say who was in command of that march, could they not?

A My defense counsel, Mr. Hall, talked already to these people.

(Roller-Court)

A I don't know but he also sent a junior to me to review my camp in November. Besides that, the members of the Luftwaffe or Wehrmacht were never regarded as fully as SS men.

Q From whom did you receive your orders to vacate Lengenfeld and join Muenich on the 14th of April?

A From Muenich himself. For this purpose I had to go to Zwickau on the morning of the 13th.

Q You mean to say you received that order directly from Muenich or was the order relayed through Muenich?

A Muenich relayed the order to me.

Q You mean the order emanated or started with the camp commander?

A Yes.

Q You never received any direct order from the Commandant himself to evacuate that camp? Is that correct?

A No. In January, that is to say, I received a written secret order that in case the camp should be included in combat area, the camp would be evacuated.

PRESIDENT: Any further questions by members of the court?

Questions by Lt. Col. Burcham:

Q How did you get the order, or who gave you the order to report to Zwickau?

A The detail leader called my office in the afternoon of the 12th. He called by telephone and ordered me to Zwickau. When the clerk asked him for what reason he said that it is secret, that he couldn't talk about it.

Q Who is this detail leader?

A Sgt Muenich.

(Roller-Court)

MR. HALL: If the court please, I might mention it is contemplated to bring one of those witnesses to the stand. Another one I would like to bring to the stand but I am very doubtful if I can in view of discussions with him and by that I do not mean to cast an inference that the reason is because his testimony would be unfavorable to the accused, Roller. I would state the reason if the court requests it.

Questions by the President:

Q Roller, it is difficult for this court to understand why you, after twelve years service in the Wehrmacht, would turn your command over to someone who was junior to you simply upon the statement of that particular individual. Can you give the court any further explanation of your actions in turning your command over to Muench, outside of what you have already testified to before this court?

A Orders were relayed to me coming from Muench quite a few times. Correction -- orders were relayed to me by Muench, orders issued by the camp commandant, which he left with Muench to inform me about, and it was clear to me that Muench had actually received orders. Muench had been a clerk in a camp in the east, either Krakow or Lublin and had participated in the evacuation marches of these camps and I knew that Muench got along with the camp commander quite well.

Q Was it the usual policy of the commandant, Koegel, to place a junior in command over a senior?

A I don't know but he also sent a junior to me to review my camp in November. Besides that, the members of the Luftwaffe or Wehrmacht were never regarded as fully as SS men.

Q From whom did you receive your orders to vacate Lengenfeld and join Muenich on the 14th of April?

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Q Who is this detail leader?

A Sgt Muenich.

(Roller-Court)

Q And he was acting as an agent or as if he were an agent for the commanding officer?

A Yes.

Q At the time this column was about to break up and be disbanded, when you found you couldn't reach Flossenburg anymore, just what did Sgt Muenich say to you?

A I told Muenich that Flossenburg had been evacuated one or two days back and that he could not reach the camp anymore. I said to him, the only way out is to deactivate the transport. Muenich said, "I will deactivate but I will follow my order that no Pole, Russian or Jew will fall in the hands of the enemy."

Q Did you tell him to deactivate it?

A Yes.

Q Did you give him that as an order?

A No, I just said it in a comradely way. I said, "Muenich, the only way out is to deactivate."

Q And he told you that he was going to deactivate, is that it?

A He said he would deactivate but that no Pole, Jew or Russian would fall into the hand of the enemy.

Q At that time you took over your own detail, your commando, is that correct?

A At that time I said to myself I don't agree with that kind of deactivation. As of today I take charge of my own detail again.

Q Will you tell the court why you didn't take charge of the entire column at that time?

A I could not take his detail away from him without getting into a fight, weapon in hand, because as far as this was concerned, Sgt Muenich was radical. In this case I only became a victim of my good nature.

(Roller-Court)

Questions by Lt Col. Smyly:

Q What was the nationality of the two prisoners you shot at?

A I can't tell the nationality. The prosecution witness stated that those two were Poles but I don't believe that he can state definitely whether they were Poles or not because at that time the prisoners, for the most part, had torn off their numbers already. I believe that he made that statement.

Q Where did your bullet hit those men?

A I shot them in the temple.

Q What was your reason for shooting them?

A These people had been torn open by the fire from the cannons aboard the plane so that their intestines were hanging out in the dirt on the road. Then their intestines were torn so that the contents of the guts were running all over and part of the clothing was mingled in their intestines.

Q I understand that they were in bad shape but I want to know what reason you did the shooting.

A I fired those shots because I saw that these people were lost beyond any help.

LT COL. SMYLY: Nothing further.

Questions by Col. Jackson:

Q Whis is farther from Flossenburg, Zwickau or Langenfeld?

A Zwickau might be a little farther away but it is near the Reichs Autobahn and can be reached faster and better.

Q Is it customary for telephone calls to go through from Zwickau to Langenfeld?

(Roller-Court)

A The normal post connection.

Q When did you last contact Flossenburg by telephone?

A With Flossenburg by telephone I believe the end of January. From then on I couldn't get through anymore. If you ordered a telephone call it would last about two days to get it and then there was no connection. I could only keep connections by courier. The courier was always on the way ten days.

Q How far was it from Lengenfeld to Flossenburg?

A I don't know exactly how far by train but I estimate about 180 kilometers.

Q Who was the camp commander at Lengenfeld?

A The competent man for Lengenfeld, the camp commander of Lengenfeld, was Lt Col Koegel. I was the detail leader.

COL JACKSON: No further questions.

Questions by the President:

Q But you were the senior non-commissioned officer at Lengenfeld at that time. Is that correct?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently there are none. Redirect?

MR HALL: None.

PRESIDENT: Re-cross?

PROSECUTION: Just one more question.

RE-CROSS EXAMINATION

Questions by prosecution:

Q You were the senior SS man at Lengenfeld, were you not?

A Yes.

PRESIDENT: Any further questions by members of the court? Apparently there are none. The court understands, Mr. Hall, that the defense is finished with this particular witness for the time being.

MR HALL: Yes.

PRESIDENT: The witness will be excused from the stand and resume his position in the dock.

(Whereupon the witness was excused and resumed his seat in the prisoners' dock)

MR HALL: Katherina Pinter.

KATHERINA PINTER, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

Questions by Mr. Hall:

Q Please state your name.

A Katherina Pinter.

Q In what town do you live?

A Now, in Flossenburg.

Q What is your age?

A 48 years old.

Q What is your nationality?

A Yugoslav.

Q What is your native language?

A German, but we always talk Yugoslavish at home.

Q Mrs. Pinter, if for any reason you do not understand the German questions that are propoun ed to you, please make it known to the interpreter.

A Yes.

Q I should like to mention to the court that inquiry has been made for a Yugoslav interpreter but none has been available. You are related to the accused, Josef Pinter, is that correct?

A Yes.

Q You are his mother?

A Yes.

Q Will you please identify your son in the dock?

(Pinter-Direct)

A The fourth in the second row.

MR HALL: Let the record show witness has identified the accused, Pinter, as her son.

Q Mrs. Pinter, will you please mention approximately when was the last time that you saw your son?

A In 1945, the 20th of April.

Q Where?

A In Flossenburg.

Q At the time you saw your son what was he doing?

A He was a guard in the camp.

Q Did you have a conversation with your son that day?

A Yes.

Q Please describe that conversation.

A The day he left on the transport he said to me that he would not go along on this death march, that he would return.

Q Continue.

A And that I should put his civilian clothes in the shed; that he would return, that he would not go along with this transport.

Q Anything else?

A The very last thing he said, if there was a possibility he would surrender himself to the Americans immediately.

MR HALL: You may cross-examine.

PROSECUTION: No questions, sir.

PRESIDENT: Any questions by members of the court? Apparently not. Redirect.

MR. HALL: Nothing. If the court please, Mrs. Pinter is urgently needed in her home in Flossenburg. May she be excused by the court?

PRESIDENT: Any objections by the prosecution?

PROSECUTION: No.

PRESIDENT: The court will grant the witness, Mrs. Pinter, permission to go to her home. That will be all. Thank you. Court will adjourn until 1:30 this afternoon.

(Whereupon the court recessed at 1200 hours.)

AFTERNOON SESSION

(Whereupon the court reconvened at 1330 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present, all the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business of the accused, all of the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith and Lipinski who are sick and whose interests are being taken care of by their counsel.

If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Defense counsel, Mr. Hall.

MR. HALL: The defense calls as its next witness Heinrich Guth in behalf of the accused Fahrnbauer.

HEINRICH GUTH, a witness called by the defense, first being duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Heinrich Guth.

Q In what town do you reside?

A Karlsruhe Durlach.

Q What is your nationality?

A I was a Jugoslav national.

Q What is your age?

A 39.

Q What is your civilian occupation?

A Merchant.

Q Do you know a man by the name of Fahrnbauer?

A Yes.

Q I ask you to please look over the prisoners in the dock and see if you can identify him.

A Yes.

MR. HALL: Let the record show that the witness has correctly identified the accused Fahrnbauer as number 11 in the dock.

Q You were located at the outcamp Plattling?

A Yes in the airport of Plattling.

Q Were you a prisoner or what were you?

A No, I was an accountant.

Q With the SS?

A Yes, I was transferred by force into the SS.

Q Describe the circumstances under which you came into the SS.

MR. BERKOWITZ: The question is objected to as irrelevant.

MR. HALL: I withdraw the question.

Q When did you leave Plattling?

A I can't remember the exact date but it could have been around the 20th or 22nd of April.

Q With whom did you leave Plattling?

A With the driver, Alfred Sendel, and Fahrnbauer.

Q What year was it that you left Plattling?

A 1945.

Q By what means did you leave Plattling?

A By car.

Q How many cars?

A Two.

Q Will you describe these cars?

A Food and baggage was loaded into one car and I myself drove this car. The second car was broken and was used as a trailer. Sick prisoners were in it.

Q Approximately what time of the day did you leave Plattling?

A It was in the evening. It could have been around 7 o'clock.

Q Where were the inmates of Plattling at that time?

A They were on their way.

Q On their way to where?

A They were going to Muehldorf.

Q What were Fahrnbauer's duties as of the time of your departure, if you know?

A He loaded the sick prisoners.

Q What, in general, were his duties in connection with this march?

A. I believe he was supposed to look out for quarters.

Q What duties did you see him perform?

A I saw him issue rations and make quarters.

Q When you left Plattling with Fahrnbauer and Sendel, what was your first stop?

A At first we stopped in Otzing.

Q What happened there?

A The driver gassed up there.

Q Where were the prisoners?

A The prisoners were in the car which was used as a trailer.

Q Where were the inmates of Plattling?

A They had left already.

Q Please describe now the events from the time you left Otzing.

A In the evening we unloaded food in a barn past Otzing and then traveled on. We drove to Landau. In Landau there was a stoppage as we couldn't go on. We had to wait for a while and the driver left the car which was used as a trailer, behind because he coule not pull it up

the hill. This was about midnight, I don't know exactly the time any more. Fahrnbauer then wanted to go on and make quarters. He wanted me to stay back with the prisoners and a guard. I rejected that because I never had any thing to do with the prisoners as I was never a member of the guard unit, so I had words with Fahrnbauer but he drove off finally and left me and the guard back.

Q Do you know to which town he was headed at that time?

A He said he was going to Eggenfelden.

C When did you next see Fahrnbauer?

A The next day in the afternoon he returned.

C By what means did he return?

A With the same car he returned.

Q What happened then - when I said returned, to what town did he return to?

A. To Landau, but in the meantime the car with the sick prisoners had been pulled outside of the town. He was pulled up the hill that the driver had not been able to make with his car by a bulldozer.

C What happened then after Fahrnbauer returned to Landau?

A The prisoners were loaded into the car with which Fahrnbauer had returned. It was late and to drive on was out of the question and Fahrnbauer made quarters for this reason nearby in a barn. The prisoners were taken into this barn and the driver returned to Landau to get gasoline. The next morning the driver returned from Landau and we loaded up and proceeded.

Q When you use the word "driver", whom do you mean?

A Alfred Sendel. Fahrnbauer had made quarters past Eggenfelden in a small village with the name of St. Sebastian. The prisoners were unloaded here and later on the transport of the prisoners arrived there too. In this house we stayed over night. The next day I moved about one kilometer

further down to a farmer's house where I lived from then on. I was not together with Fahrnbauer then. I stayed with this far er for several days until we drove on.

Q Where did you go from St. Sebastian?

A From St. Sebastian we ere to go in the direction of Muehldorf. The prisoners' transport left in the morning and a little later we left by car. A short distance from St. Sebastian we passed the prisoners' column.

Q Whom did you see with that prisoners' column at that time that you knew.

A I saw the detail leader Sorenson and Sgt. Schoenbert.

Q. Who is this detail leader Sorenson?

A That was the detail leader of Plattling.

Q ho is Schoenb rt?

A He was a sergeant who as connected with the guards. He would distribute them and so forth.

Q What happened then?

A Here we stopped. I believe Sorenson stopped us there but I can't recall that exactly. All I know is that we stood there on the road for a short moment but we immediately drove on and a little distance away from Neu Etting Fahrnbauer made quarters for the prisoners and guards there.

Q Who was traveling in the vehicle with you from Eggenfelden?

A Fahrnbauer drove along.

Q Who else?

A I can't remember who else as in the car.

Q Who was driving?

A Alfred Sendel, the driver. Fahrnbauer was sitting in front with the driver and I was in the back, in the covered back of the car.

Q What happened then after your arrival at Neu Etting?

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A. When Fahrnbauer had made quarters near Neu Oetting and after we had been there for a little while we heard shots. We then found out that American tanks were near. Fahrnbauer then gave orders to drive on. He then wanted to turn around and drive towards the transport but when we reached the guard he would not let us through. He said Neu Oetting was a hospital town and that we could not pass through it and he told us that we could go in the direction of Burghausen. He drove on through Burghausen. The name of the village is Augen near Pirach. He quartered us here with a farmer, Alois Bonauer.

Q How do you spell the name of that farmer, do you know?

A B-o-n-a-u-e-r.

Q What happened there?

A He quartered us here. The farmer was not at home so he went to the burgomaster to get quarters assigned for us. We stayed there because we didn't have anything else to do. We stayed there for 3 days and then the driver and I took off in the direction of home.

Q You said: "We stayed there" - whom do you mean by we?

A Fahrnbauer, Sendel and I - the 3 of us.

MR. HALL: Reporter, will you mark this document for identification?

(The document referred to was marked Defense Exhibit No. 27 for Identification)

Q Mr. Guth, I show you defense exhibit 27 which has been marked for identification and ask if you have seen this before.

A Yes.

Q What is that exhibit?

A That is a sketch showing the route we took from

Plattling to Pirach.

Q I ask you to take this lead pencil and please mark the route you took from Plattling to Pirach.

A (Indicating)

Q You mentioned that along this route you saw the column of prisoners and the detail leader Sorenson.

A Yes.

Q Will you please mark with that lead pencil the letter X at the spot approximately where you saw Sorenson and this column and also please the letter G by that mark?

A (Indicating) The first time behind Oetzing and then behind St. Sebastian on the road towards Neuoetting.

Q Now the time you saw Sorenson in these 2 places what means of transportation was being used by them?

A They were on foot.

Q What means of transportation did Sorenson use?

A As far as I can remember Sorenson had a vehicle.

Q During that entire march that you have described what means of transportation were you using?

A I drove with the car all the time.

Q Who was with you?

A Sendel and Fahrnbauer. I forgot to mention this before but as far as I can remember the medic also drove along from St. Sebastian.

Q You mentioned a trip by Fahrnbauer from Landau to Eggenfelden and return to Landau. Do you recall that?

A Yes.

Q During that trip by Fahrnbauer where were you?

A During this trip I went into a restaurant a few times in the morning because I was cold.

Q In what town?

A In Landau.

Q When Fahrnbauer left Landau at that time who went with him?

A The driver Gendel, a guard and a prisoner.

Q When Fahrnbauer returned to Landau who was with him?

A Only the driver Gendel was there.

Q During the time that you were with Fahrnbauer on this march did you see him shoot any prisoners?

MR. MARCUS: That is objected to as leading.

PRESIDENT: Objection sustained.

Q During the time that you were with Fahrnbauer on this march will you please describe his conduct with reference to the prisoners?

A I can't say much because during the time that Fahrnbauer loaded the prisoners I was not present. I was in town buying bread from a bakery and when Fahrnbauer drove past with the car I got in.

Q Mr. Guth, I am only asking about the time that you were with Fahrnbauer.

A I was together with him until Landau, then I drove on and returned.

Q We know pretty well when you were with Fahrnbauer. My question is how did Fahrnbauer treat the prisoners while you were with Fahrnbauer?

A Well.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination, proceed.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Guth, where did you see him treat prisoners well?

A I only saw that he talked to them here or there and made cigarettes for them, other than that I was not present.

Q How did he treat prisoners well?

A Behind Landau this woman did not want to take these prisoners in for quarters because she was afraid these prisoners were not clean or had lice.

Q Which prisoners are you talking about?

A About those who were in the car, the same ones.

Q And those are the prisoners that he treated well?

A I remember that he loaded them in front of this woman and he said that they were decent and good people and that she didn't have to be afraid of any thing.

Q How many prisoners were they?

A That I can't say exactly - 20, 25, perhaps more.

Q How many prisoners were in the transport?

A That I don't know.

Q You don't know how he treated prisoners who were not sick, do you?

A No, I was not present, I didn't see anything.

Q What were the nationalities of the prisoners who were sick?

A I don't know that.

Q Now you left Plattling with Fahrnbauer, is that correct?

A Yes.

Q You were in the same car as he?

A Yes.

Q How far did you ride in the car with him?

A I drove all the way with him to Augen, that is Pirach.

Q You rode all the way to Pirach with him? How long did that ride last?

A About 8 days.

Q How far did you go the first day?

A The first day we drove to Landau.

Q Did Fahrnbauer remain with you until you reached Landau?

A Yes.

Q How long did you remain in Landau?

A Fahrnbauer drove on after midnight and I stayed there and he returned the next afternoon.

Q You don't know what he did during that time, do you?

A He said that he had made quarters.

Q And you only know what he did from what he told you, is that correct?

A Yes.

Q After he returned where did you go?

A Then we drove ahead a little ways to a farm where the prisoners were quartered.

Q Which prisoners?

A The ones on the truck.

Q Did Fahrnbauer drive with you to this farm?

A Yes.

Q How long did you remain there?

A Only over night.

Q Did Fahrnbauer remain there over night?

A Yes, but not in the same house, a little farther down Fahrnbauer and I slept in a barn.

Q What did you do after that?

A In the morning when we got up we drove ahead.

Q How far did you drive?

A To St. Sebastian where he had made quarters.

Q Was he with you all the time when you drove to St. Sebastian?

A Yes.

Q How long did you remain in St. Sebastian?

A We stayed several days there, I can't say exactly how long.

Q Where did you stay in St. Sebastian?

A In a farmer's barn. I only stayed there one night together with Fahrnbauer.

Q What time did you arrive at this barn?

A In the morning about 10 o'clock.

Q You stayed there over night?

A Yes.

Q Was Fahrnbauer with you all that day?

A With the exception of a short time during which he went some place else - to the burgomaster as far as I can remember.

Q How long a time was he away?

A He only stayed away for a short time and then left again, as far as I can remember he was supposed to get a different billet.

Q How long did he remain away the second time?

A That I can't say.

Q Do you know what he did while he was away the second time except from what he told you?

A No, he didn't tell me much. I only heard that he was away concerning quarters.

Q You spent the first night in St. Sebastian and Fahrnbauer was with you, is that correct?

A Yes.

Q What did you do the next morning?

A The next day I moved to a farmer's house.

Q Did Fahrnbauer move with you?

A No, Fahrnbauer stayed there.

Q Were you with Fahrnbauer that day when you moved to the farmer's house?

A Yes, as far as I can remember.

Q Were you with him all day?

A No, not all day.

(Guth-Cross)

C How long a time were you with him?

A That could only have been a short time.

C Do you know what he did during the time he wasn't with you?

A No, I don't know that.

C Did Fahrnbauer sleep at the farmer's house that night?

A Yes.

C Didn't you say Fahrnbauer remained behind at the other place?

A No.

C And Fahrnbauer moved with you to the farmer's house, is that correct?

A Fahrnbauer stayed in that house, the driver and some others stayed in that house but I don't remember who the others were.

Q Now, how many night did you sleep in the farmer's house?

A Several nights, I don't know exactly.

Q And Fahrnbauer slept in another house, is that correct?

A Yes.

Q Can you approximate the number of nights he slept in the farmer's house?

A I can't know exactly any more whether it was 4 days or 6 days.

Q Now did you spend each one of these days with Fahrnbauer all day?

A No.

Q Did you see him every day?

A I didn't see him every day but off and on I saw him.

Q How long a time did you see him when you saw him?

A Only a short time.

Q Do you know what he did when he wasn't with you?

A No.

Q During the course of this transpo t did you see Fahrnbauer in contact with the transport of prisoners?

A No.

Q Do you have any knowledge of how Fahrnbauer treated the prisoners who were on the foot transport?

A No, I don't know that.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q According to these unknown days that you were at Eggenfelden, what were the prisoners doing?

A They were quartered in a barn.

Q You were just asked a question by the prosecution "How did Fahrnbauer treat the prisoners who were on the foot march?" Do you recall that question?

A Yes and my answer was that he had treated the prisoners well who drove along in the car.

Q How often did you see the prisoners on the foot march while you were with Fahrnbauer?

A Twice.

Q During those 2 contacts with the prisoners on the foot march, how did Fahrnbauer treat the prisoners on the foot march?

A I hardly think that he had anything to do with them.

MR. HALL: That is all.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You don't know what he had to do with them during the days you didn't see them, do you?

MR. HALL: I think that question is self explanatory - It has been asked about 3 times already.

PRESIDENT: Objection sustained.

Q You said the prisoners were quartered in a barn during the period of time at Eggenfelden. What prisoners were you talking about?

A All the prisoners, the sick and the transport which had arrived.

Q Did you visit these prisoners in their quarters?

A No.

Q Were you a member of the SS?

A Yes.

Q Were you a Volksdeutscher?

A Yes.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect examination?

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Will you explain to the court how you became a member of the SS?

A I was not actually a member of the SS - -

MR. BERKOWITZ: I object to his telling how he became a member. That has already been ruled on!

PRESIDENT: Mr. Prosecutor, didn't you just ask him that question a moment ago?

MR. BERKOWITZ: Yes, I did, but how he became a member is irrelevant and immaterial.

PRESIDENT: The court feels that if you can ask that question, the defense has a perfect right to go into it. The objection is overruled.

QUESTIONS BY MR. HALL:

A I was transferred - I was drafted into the Croatian Army and was then forced to transfer.

When did this take place?

A The end of 1943.

Q You said you weren't exactly a member of the SS. What do you mean by that?

A When you say member, I understand a member to be a regular SS man, because when we reported in Berlin and complained about being taken to the SS, we were taken to Berlin under guard, the whole train was guarded by SS men.

MR. HALL: Nothing further.

PRESIDENT: Recross examination?

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAY MEMBER:

Q When the inmates left Plattling how many were there, do you know?

A I don't know that.

Q How many inmates were in Plattling if you know?

A No I don't know that.

Q Can you approximate?

A Perhaps 400.

Q When you left with Fahrnbauer, did you leave before the column left or after the column left?

A After the column left.

Q What time of day did the column leave?

A The column could have marched off at about 1 or 2 o'clock in the afternoon.

Q Who was in charge of the column when it left?

A Sorenson.

Q It has been testified by a man named Grinberg that Fahrnbauer was the head of that column. Are you sure it was Sorenson?

A Yes, Sorenson.

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C You are positive that Fahrnbauer was not in command of that column?

A Yes, because Fahrnbauer traveled with me.

C Then if he left with you on the 20th, when did he finally leave you?

A He did not leave me. I and the driver were away from the farmer, Bonauer.

Q When did you leave the farmer, Bonauer?

A The 3rd of May, shortly after the noon meal.

C Was Fahrnbauer with you when you left?

A Yes, but he stayed back there.

Q Well now, this same man Grinberg also testified that Fahrnbauer, in addition to being in command of the column, had shot and killed 3 prisoners. Do you know anything about that?

A No, I don't know anything about that.

Q Did you ever hear anything about it?

A No.

C Did he ever shoot any of the prisoners while he was with you?

A No, I never saw that.

Q In the group of prisoners that were with you and Fahrnbauer, was there a man named Grinberg?

A I don't know that. I never heard the name.

C How many prisoners did you say were in that detail with you and Fahrnbauer?

A I don't know. There could have been 20 up to 30 perhaps, I don't know.

C Were there any of those prisoners shot during the time that you and Fahrnbauer were with them?

A No.

C Did you ever hear of Fahrnbauer shooting any prisoners on that march?

A No.

Q You said you came in contact with the prisoners on 2 different occasions. How long a time was that - that is with the column?

A Each time, only a very short time.

Q Were you close to Fahrnbauer on those occasions?

A Fahrnbauer was present there.

Q Did he shoot anybody on those occasions when he was with that column?

A No, I did not see it.

Q Did you ever hear of any shooting of prisoners by Fahrnbauer?

A No.

LAW MEMBER: Nothing further.

QUESTIONS BY COL. BURCHAM:

Q Was Fahrnbauer in command of the column in Platt-ling on the 20th of April 1945 when you left that place?

A No.

Q Who was?

A Sorenson.

Q What was his rank?

A 1st Sergeant.

Q What was the rank of Fahrnbauer?

A 1st Sergeant.

Q Who was in command on the 10th of April 1945?

A Sorenson, also.

COL. BURCHAM: No further questions.

PRESIDENT: Any further questions by members of the court? (Apparently not) Redirect?

MR. HALL: Nothing further, sir.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Now during the period of time from the time you

left Plattling until the time you left Fahrnbauer behind, did he at any time carry arms?

A That I can't remember. He did not carry a rifle.

Q Did he carry a pistol?

A That I can't say today.

Q Well, you were with him for a period of 8 days - Didn't you know whether or not he carried a pistol?

A No.

Q You say the column left at 1 o'clock on the 20th. Were you present when they left?

A Not directly present but I saw them march off from a distance.

Q Where was Fahrnbauer at that time?

A Fahrnbauer was probably there where the transport left.

Q Do you know whether or not Fahrnbauer moved out with the transport at that time?

A No, he didn't go along.

Q Did you see him that afternoon?

A Yes, I saw him.

Q How soon after the transport moved out did you see him?

A That I can't say exactly. I saw him during the course of the afternoon.

Q How many times.

A Once.

Q Can you approximate that time?

A That I don't know. That was during the time the car was arriving to load the prisoners, the baggage and the food.

Q Was that shortly before the time you moved out?

A It might have been 2 hours prior to that.

Q Do you know what Fahrnbauer was doing from the time the column moved out until the time you saw him that

afternoon?

A He was present when we loaded the food rations and baggage.

C That was after the car arrived?

A Yes.

MR. BERKOWITZ: No further questions.

MR. HALL: Nothing further.

PRESIDENT: Any further questions by members of the court? (Apparently not) The court understands that the defense is finished with this witness?

MR. HALL: Yes, sir.

PRESIDENT: The witness will be excused.

MR. HALL: May the witness be excused to return to his home and his work?

PRESIDENT: Yes, if it is all right with the prosecution.

MR. BERKOWITZ: I can't say at the present time. I will know later in the day whether we want to talk further with him or not.

PRESIDENT: Mr. Hall, when the prosecution is finished with the witness, the court will grant the witness permission to return to his home. Now, the witness will be excused from the chair.

At this time the court desire to take up certain matters with the prosecutor with respect to certain exhibits. In compliance with the request of the court, the prosecution has furnished the court the English translation of certain exhibits. The court, in the first place, in referring to Prosecution's Exhibit 72-A, notes that Harry Berkowitz, Assistant TJA, has administered 2 different oaths as indicated on this exhibit. The court would like to know, Mr. Berkowitz, about the authority for that.

MR. BERKOWITZ: That was by a directive authorizing

professional civilians assigned to War Crimes to administer the oath.

PRESIDENT: You will furnish the court a copy of that. At the same time this applies to 73-A.

MR. BERKOWITZ: I think the directive says CAF ratings above 7 and all professionals.

PRESIDENT: The court will desire a copy of that. Col. Wilson, the court further notes that the same thing applies to certain English translations furnished the court. The court is referring to Defense Exhibit 20-A in which Joseph Kirschbaum, investigating officer, has twice administered an oath. The court notes there is no indication that that particular individual is an Army officer. The court refers to Defense Exhibit 22-A in which Joseph Kirschbaum, investigating officer, has twice administered an oath and the court notes there is no indication that that particular individual is an Army officer. The court also refers to Defense Exhibit 23-A in which Joseph Kirschbaum, investigating officer, has twice administered an oath and the court notes there is no indication that that particular individual is an Army officer. The court desires that Col. Wilson show authority for that.

MR. BERKOWITZ: May I call the court's attention to the second paragraph on page 208 of the War Crimes Manual, Section 350 - -

PRESIDENT: This will be off the record.

(Discussion off the record)

PRESIDENT: The court will come to order. Mr. Berkowitz, the court directs you if at all possible to secure a copy of the letter AG230, GAP-AGKP "Authority For Civilians To Administer Oaths In Connection With War Crimes Investigations" under date of the 2nd of April 1946, this letter having been cited as a reference in Section 350,

page 208 of the Manual for the Trial of War Crimes and Related Cases.

The court further directs Lt. Col. Wilson to notify the court of the CAF grade of Joseph Kirschbaum, investigating officer. The court would like that information, Col. Wilson, at the first opportunity.

Proceed, Mr. Hall.

MR. HALL: Call Alfred Sendel.

ALFRED SENDEL, a witness called by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Alfred Sendel.

Q In what town do you reside?

A Bayreuth.

Q What is your nationality?

A German.

Q What is your age?

A 32 years old.

Q What is your civilian occupation?

A Driver.

Q Do you know a man by the name of Fahrnbauer?

A Yes.

Q Look over the prisoners' dock and identify him if you can.

A Yes (indicating)

MR. HALL: Let the record show the witness has correctly identified the accused Fahrnbauer, No. 11.

Q Where did you first see Fahrnbauer?

A In Plattling.

Q Were you stationed at Plattling at any time?

A Yes.

page 208 of the Manual for the Trial of War Crimes and Related Cases.

The court further directs Lt. Col. Wilson to notify the court of the CAF grade of Joseph Kirschbaum, investigating officer. The court would like that information, Col. Wilson, at the first opportunity.

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A Yes.

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A Yes.

Q Look over the prisoners' dock and identify him if you can.

A Yes (indicating)

MR. HALL: Let the record show the witness has correctly identified the accused Fahrnbauer, No. 11.

Q Where did you first see Fahrnbauer?

A In Plattling.

Q Were you stationed at Plattling at any time?

A Yes.

Q In what capacity?

A With the air forces.

Q When did you leave Plattling?

A It could have been the 20th or 22nd of April.

Q The year?

A 1945.

Q With whom did you leave Plattling?

A I left Plattling with Fahrnbauer, Guth, one prisoner and one guard.

Q About what time on the 20th or 22nd of April 1945, did you leave Plattling?

A I don't know the exact time. It could have been about 6 or 7 in the evening.

Q Where were the prisoners who were at Plattling at that time?

A The prisoners had gone by that time.

Q Do you know approximately when the prisoners left Plattling that day?

A It could have been about 1 or 2 o'clock in the afternoon.

Q Were you stationed right in Plattling on that day?

A Yes.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours)

Camp Dachau, Germany
18 October 1946

AFTERNOON SESSION (Continued)

(Whereupon the court reconvened at 1535 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show all the personnel of the court are present and the personnel of the prosecution are present with the exception of Mr. Denson and Mr. Pinter, who are absent on business for the prosecution. All the personnel of the defense are present with the exception of Dr. Engelhorn who is absent on business for the accused. All the accused are present with the exception of Buddensieg, Oswalt, Olschewski, Jakubith and Lipinski who are sick in the hospital and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case will they please leave the court room.

PRESIDENT: Colonel Wilson.

DEFENSE COUNSEL: May it please the court, in pursuance of the court's direction before the recess I have ascertained that the CAF grade of Joseph Kirschbaum is 7. In getting that information I did not have access to any original documents but only to an index file which presumably is correct, that index being the only record which the personnel office here in Dachau under the command of Major Pugh has available. Mr. Kirschbaum is not present this afternoon. If the court wishes I can ask him when he comes back, but he is no longer on the Flossenburg case.

PRESIDENT: The court is satisfied with the explanation made by the Assistant Prosecutor, Mr. Berkowitz relative to

Prosecution Exhibits 72a and 73a with reference to the authority of Harry Berkowitz, Assistant Trial Judge Advocate, to administer oaths. The court is further satisfied with the explanation made by the defense counsel, Lieutenant Colonel Wilson, with reference to Defense Exhibits 20a, 21a, 22a and 23a, with particular reference to the authority of Joseph Kirschbaum, investigating officer, to administer oaths. The court is referring to the professional status of Mr. Berkowitz.

MR. HALL: I offer in evidence Defense Exhibit 27.

PRESIDENT: Is there any objection by the prosecution?

MR. BERKOWITZ: No objection.

PRESIDENT: The court will receive Defense Exhibit 27 in evidence and give it such consideration as the court sees fit.

ALFRED SENDEL, called as a witness by the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL:

Q Mr. Sendel, during the month of April, 1945 to what organization were you assigned?

A I was sent to the organization O. T. (Organization Todt) construction detail.

Q Where is that organization located with reference to Camp Plattling?

A That was just across the street.

Q To whom did you report that day in Camp Plattling?

A I reported at Camp Plattling to Sorensen.

Q How did you happen to report to him on this day in question?

A Because the O. T. organisation had given me an order to report to him.

Q When did you report to him? Approximately what day?

A That was around the 22nd.

Q About what time of day did you report to him?

A At one o'clock in the afternoon.

Q Did you have a conversation with Commandant Sorensen at that time?

A No.

Q When you reported to him what did you do?

A I just reported that I had to drive there.

Q What did he say?

A I should report to the nourishment camp.

Q To whom should you report?

A There was not any definite name given.

Q When did you see Fahrnbauer for the first time?

A On the 20th or 22nd of April, 1945. I saw him when we unloaded there around noon, probably 2 o'clock in the afternoon.

Q For what purpose did you see Fahrnbauer?

A He was supposed to go with me to get a truck from the work shop.

Q How do you know he was the one who was supposed to go with you?

A Because he drove with me before.

Q At the time you met Fahrnbauer around 2 o'clock in the afternoon where were the inmates of Camp Flattling?

A The inmates had fallen in.

Q What did they do after they fell in?

A They immediately marched away.

Q When the inmates marched away where were you?

A I was still up there in the camp.

Q Who was with you?

A Fahrnbauer, Guth and the medic, a prisoner and a few guards were with me.

Q You said you left about 6 or 7 o'clock in the evening. Is that correct?

A Yes.

Q What were you doing between approximately 2 o'clock in the afternoon and 6 or 7 o'clock in the evening?

A First of all we drove down to the work shop and picked up a truck. After we got that we went to the food camp and loaded food on the truck. After we had loaded food on the truck the prisoners who could not walk were loaded on the truck and in the meantime it had gotten so late.

Q Who was with you during that period of time from approximately 2 o'clock in the afternoon until the time of your departure at 6 or 7 o'clock in the evening?

A Fahrnbauer, Guth and the prisoners who helped in the loading.

Q Tell us where you made your first stop when you left Plattling.

A The first time I made a stop was in Oesing.

Q What happened there?

A We went to the organization Todt and filled up with gas. We went first in Plattling then we went to the baker and got some bread, then we went to Oesing and picked up gas at the O. T. organization, and then drove on and looked for the columns.

I left the wagon truck outside of Oesing and found that the prisoners had spent the night quartered in a barn. We unloaded food and drove back and picked up our truck again, then we drove on in the direction of Landau. Just before we reached the hill in Landau I unhooked the truck again because it was too heavy and we drove through the night in the direction of Eggenfelden.

Q Up to the town Landau from Plattling who do you mean by the word 'we?' Who was with you?

A The truck was full of prisoners and guards. Besides that Guth and Fahrnbauer were with me.

Q When you left Landau who was with you?

A When I left Landau Fahrnbauer, a prisoner and a guard were with me.

Q Where did you and that guard go when you left Landau?

A We took off in the direction of Eggenfelden.

Q What did you do when you arrived in Eggenfelden?

A We stopped in Eggenfelden and Fahrnbauer went to the mayor of the city.

Q Do you know for what purpose he went to the mayor?

A He wanted to look for quarters for the prisoners.

Q What happened then?

A He came back after an hour and a half or two hours and said they had found quarters outside the City of Eggenfelden and it was in St. Sebastian. We drove over there and unloaded our baggage. That was around 9 o'clock in the morning.

Q Where was the column of prisoners at that time?

A I don't know. Around 1 o'clock in the afternoon Fahrnbauer and I drove back to Landau. Under way we ran out of gasoline and we had trouble with strafing planes so that it was already

evening before we arrived in Landau again. We drove to Landau and picked up some gas. The trailer had already slipped off with the prisoners in it going uphill. We unloaded the prisoners from the trailer, put the trailer on my truck, and drove outside of Landau.

Q Did you say you put the trailer on your truck?

A I transferred the prisoners from the truck to the trailer.

Q What happened then?

A Then we drove outside of Landau to a little village and there the prisoners were given quarters in a barn.

Q What prisoners are you speaking of now?

A They were prisoners who had bad feet and could not continue to march on foot.

Q Where was the column of prisoners at this time?

A I don't know.

Q What happened then?

A We stayed there for several days and I went repeatedly to the next village to the baker and picked up some flour and had some bread baked.

Q You stayed where?

A In St. Sebastian.

Q Where were the prisoners at that time?

A The prisoners did not arrive until the next day around noon. They received their quarters three or four kilometers from our quarters.

Q Do you recall approximately how many days you were in St. Sebastian?

A It could have been 4 or 5 days.

(Sendel-direct)

Q What were the prisoners doing during those 4 or 5 days?

A I don't know. I never went over there.

Q What happened then?

A We left St. Sebastian on the first of May again. The column had shoved off in the morning between 5 and 6. Between 8 and 9 we shoved off again after we loaded up the baggage and eating utensils of the guards. We took the direction of Oetting. When we arrived in Oetting Fahrnbauer went over to the mayor again and tried to get some quarters. Since the original mayor in Oetting had been shot to death in the meantime it took some time before he could locate the second mayor. He came back after about an hour and we drove three or four kilometers behind Oetting to a little village.

Q Where was the column of prisoners at that time?

A I don't know. There we unloaded everything we had including our baggage. Fahrnbauer went to an officer of a company located there in an area and arranged for quarters and at that time we saw American tanks approaching. We loaded our baggage in the car again and drove in the direction of Oetting and we were stopped by a guard outside of Oetting and he told us we could not go through because Oetting had been declared a hospital city. Then we took off in the direction of Burghausen. From Burghausen we went on further to Pirach, Aigen, and we took quarters with the farmer Bonauer.

Q What happened then?

A Well, Guth and I stayed there for three days.

Q Who was with you during those three days?

A Guth, Fahrnbauer, a guard and a medic were with me during these days.

Q When you drove from St. Sebastian toward Neu-Oetting who was with you at that time?

A Fahrnbauer, Guth and a guard were with me then.

Q Do you recall the name of the guard?

A No.

Q I show you Defense Exhibit 27 and ask if you have seen that before?

A That represents the stretch which we travelled from Plattling to Aigen (indicating).

Q What represents the stretch from Plattling to Aigen?

A The red line.

Q How many times did you see the prisoner column on the march?

A I saw them on the march twice.

Q Where?

A Once in Ossing and once on the stretch between St. Sebastian and Oetting.

MR. HALL: With pen and ink please mark the letter "S" at the point where you saw the column?

(Whereupon the witness marked the map as instructed.)

QUESTIONS BY MR. HALL (continuing):

Q Who was in command of that column?

A Sorensen was in charge of this column.

Q Where did you see Sorensen?

A I saw Sorensen on the stretch between St. Sebastian and Oetting.

Q What means of transportation was he using?

A A bicycle.

Q What means of transportation was being used for the column of prisoners?

A The prisoners went on foot.

(Sendel-direct)

Q From Plattling to Pirach what means of transportation did you use?

A I was travelling with the truck.

Q When you were travelling from Plattling to Pirach where was Fahrnbauer?

A He was accompanying me in the truck.

Q During the time that you were with Fahrnbauer how did he treat the sick prisoners that were on the truck?

A The prisoners were treated well.

Q When you saw the column at Ocsing about how long were you there?

A I don't know. They had already taken quarters in the barn. I had been in Ocsing about a quarter of an hour.

Q Where was Fahrnbauer while you were in Ocsing?

A He was with me in the truck.

Q Where were the prisoners with reference to you and Fahrnbauer and the truck while you were in Ocsing? By that I mean the column of prisoners.

A He would drive up to the barn with the truck. We unloaded and after we had eaten a little bit we drove off again.

Q How close did you and Fahrnbauer get to the column with the truck at that time?

A About 15 meters away.

Q At that time how did Fahrnbauer treat the prisoners who were members of that column?

A We did not see them most of the time because they were sleeping.

Q Calling your attention to the point just below St. Sebastian where you saw the column of prisoners, how long were you with the column at that point?

A That was 5 minutes.

Q What happened at that point?

A We stopped there for a short time. Sorensen talked to Fahrnbauer, then we drove on.

Q While you were stopped at that point how did Fahrnbauer treat the prisoners who were members of that column?

A He did not have anything to do with the prisoners at all because he was carrying on a conversation with Sorensen.

Q During the several days in St. Sebastian how much of the time did you spend with Fahrnbauer?

A Four or five hours a day.

Q Do you know what he did to the prisoners during the time you were there with him?

A He had very little to do with the prisoners because usually he spent his time with the captain of the patrol.

Q Were you a member of the SS?

A No.

Q Were you ever a member of the National Socialistic Party?

A No.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination, Mr. Berkowits.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Do you know who was second in command at Plattling?

A I don't know.

Q What rank was Sorensen?

A What rank? He was a sergeant or a staff sergeant.

Q What was the rank of Fahrnbauer?

A Fahrnbauer was a sergeant.

Q Were there any other sergeants in Plattling?

A I don't know. I didn't see any.

Q Did you know Fahrnbauer before you left Plattling on that day?

A No.

Q The first time you saw him then was about two p.m. on the 20th or 22nd of April?

A Yes.

Q You were with him until 7 o'clock?

A I was always with him.

Q Were you with him until 7 o'clock that day, between 2 and 7?

A Yes.

Q Was Guth there at that time?

A Guth was also there.

Q Guth was there between 2 and 7?

A Yes.

Q The sick prisoners who were with you. Where did you get them?

A The sick prisoners had been loaded on another truck and I had taken them along.

Q Were loaded on a truck at Plattling?

A You mean on my truck?

Q No, on the other truck.

A At Plattling they were loaded on the other truck.

Q Did you have any sick prisoners on your truck?

A Not until we had shoved off from Landau.

Q Did you pick up some sick prisoners at Landau?

A Yes.

Q Were those sick prisoners taken from the other truck?

A I had taken them along with me from Plattling to Landau.

Q All the sick prisoners who were with you in one car or another were loaded in Plattling?

A Yes.

Q How long a time transpired between the time you arrived in St. Sebastian and the time the column arrived there?

A One o'clock in the afternoon I came to St. Sebastian and the other column arrived the next day at noon.

Q So approximately a whole day transpired between the time you arrived and the time the column arrived?

A Yes.

Q What did you do that day?

A I fixed up my truck that day.

Q Was Fahrnbauer with you during those 24 hours?

A Yes.

Q What was he doing?

A He had a lot to do with the patrol with regard to quarters.

Q Where were you fixing the truck?

A I had the truck standing in the court yard of a farmer where we were staying.

Q Was Fahrnbauer conferring with the officer of the patrol in the court yard?

A That happened many times. Almost every day.

Q How long did these conversations with the patrol officer last?

A They often lasted half an hour, then again one there because he would often come.

(Sendel-cross)

Q Confining ourselves from the time you arrived at St. Sebastian to the time the column arrived, how many times did you see Fahrmbauer talk to the officer of the patrol in the court yard where you were fixing the truck?

A At least three or four times.

Q When was the first time?

A That was right in the afternoon.

Q When was the second time?

A It was toward evening the second time and the other times in the morning the next day.

Q Do you know where Fahrmbauer was when he was not in that court yard?

A Where he was I don't know.

Q You say that when you were with Fahrmbauer at Pirach you spent four or five hours a day with him. Is that correct?

A We were not at Pirach. We were at Aigen.

Q How long were you at Aigen?

A I was three days in Aigen.

Q That is where you spent 4 or 5 hours with Fahrmbauer?

A Yes.

Q What did you do four or five hours a day?

A We spoke about the situation and usually we talked about the best way we could get home.

Q You talked about that 4 or 5 hours a day?

MR. HALL: I object to the prosecution arguing with the witness.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q You say in Aigen he usually spent his time with the patrol?

MR. HALL: I object to that as mis leading.

(Sendel-cross)

MR. BERKOWITZ: He said that in direct examination.

MR. HALL: As I recall it, he said that about St. Sebastian.

MR. BERKOWITZ: Well, we can have the witness clarify it.

PRESIDENT: The objection is overruled.

MR. BERKOWITZ: I withdrew the question.

QUESTIONS BY MR. BERKOWITZ:

Q Where did he usually spend his time with the captain of the patrol?

A He spent most of his time with the captains.

Q What place?

A That was in the same building with us, 2 or 3 houses down.

Q What building?

A In St. Sebastian.

Q How much time did you spend with Fahrnbauer at Pirach?

A I was not in Pirach. We were in Aigen. We did not stay in Pirach at all.

Q How much time did you spend in Aigen?

A I was three days in Aigen with Fahrnbauer.

Q Is that where you spent 4 or 5 hours per day, with Fahrnbauer?

A I did not understand that.

Q I want to know if Aigen is the place where you spent 4 or 5 hours a day with Fahrnbauer.

A I don't understand it.

Q Well, were you with Fahrnbauer in Aigen?

A Yes.

(Spandel-cross)

Q How many days?

A Three days.

Q How much time did you spend with Fahrnbauer at Aigen?

A We were 5 or 6 hours every day together with each other.

Q What did you do for 5 or 6 hours every day?

A We carried on a conversation about timely topics.

Q What did Fahrnbauer do when he was not talking to you 5 or 6 hours a day?

A He went into a neighbor's house and listened to the radio.

Q Where did you go from Aigen?

A I went home from Aigen by foot to Bayreuth.

Q Did Fahrnbauer go with you?

A No.

Q Do you know what Fahrnbauer did when you left Aigen?

A I don't know.

Q Do you know what Sorensen did when you left Aigen?

A I never heard anything else about Sorensen again after St. Sebastian.

Q Were you in touch with the column after you left St. Sebastian?

A No.

Q Did you see the column at all?

A Yes, I saw them on the stretch between St. Sebastian and [redacted].

Q After they left St. Sebastian?

A Yes.

Q You did not see Sorensen on that occasion did you?

A Yes, it was there I saw him for the last time.

Q Did the column go to Aigen?

A As long as I was there the column did not reach it.

Q Do you know how far the column reached?

A I don't know that either.

Q During the time you were with Fahrnbauer was he armed?

A Yes.

Q What sort of arms did he carry?

A He had a pistol.

MR. BERKOWITZ: No further questions.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place and reconvened at 1635 hours.)

PRESIDENT: The court will come to order. Redirect, Mr. Hall.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Do you know a man by the name of Filve?

A Phillip?

Q Do you know a man by the name of Phillip?

A Yes.

Q Did you see him at any time during this march?

A He was in St. Sebastian with a motorcycle.

Q What did he do?

A I don't know.

MR. HALL: That is all.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Will you indicate on this map where Aigen is?

A Not Aigen but Eggenfelden.

Q Didn't you testify a little while ago about a place called Aigen?

A Yes, it is next to Pirach. It is not on the map.

Q On which side of Pirach is it?

A About one kilometer away from Pirach.

MR. BERKOWITZ: No further questions.

PRESIDENT: Are there any questions by any member of the court?

EXAMINATION BY THE COURT

QUESTIONS BY LAW MEMBER:

Q I believe you said you left St. Sebastian with Fahrnbauer. Is that correct?

A Not St. Sebastian.

Q Where is the last place you saw Fahrnbauer?

A In Aigen.

Q How long was it after that you next saw the column?

A From where?

Q From Aigen.

A I did not see it at all.

Q Didn't you say you saw the column after you seperated from Fahrnbauer the last time you saw the column?

A No, that was not said.

Q The last time you saw the column where was Fahrnbauer?

A He was in my truck.

Q Do you know where Fahrnbauer went when you left him?

A I don't know.

(Sendel-court)

Q What was the date you separated from Fahrnbauer?

A May 3, 1945.

Q What had happened to the column at that time, do you know?

A I don't know.

QUESTIONS BY THE PRESIDENT:

Q You mentioned you saw the column after you left St. Sebastian. Just where was that?

A On the road from St. Sebastian to Oetting.

Q Did you have any contact with the column at that time?

A No.

Q Where was Fahrnbauer at that time?

A Fahrnbauer talked to Sorensen.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect.

MR. HALL: Nothing, sir.

PRESIDENT: Recross?

MR. BERKOWITZ: I have one question.

RECROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q Did you inquire what had happened to the column after you last saw it?

A No.

Q During these 5 or 6 hours a day that you talked to Fahrnbauer did you ever discuss anything about the column at all?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Defense?

MR. HALL: Nothing, sir.

(Sendel-recross)

PRESIDENT: The court understands, Mr. Hall, that the defense has finished with this particular witness?

MR. HALL: Yes, sir.

PRESIDENT: Has the prosecution?

MR. BERKOWITZ: I have.

MR. HALL: Then may this witness be excused and allowed to go to his home?

PRESIDENT: The witness will be excused and allowed to return to his home. The court will adjourn until 9 o'clock Monday morning.

(Thereupon the court adjourned until 0900 hours 21 October 1946.)

CA/GI 13

First Duplicate

Legal Form No. 8

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MILITARY GOVERNMENT COURT

CASE RECORD.

Pages 5342 - 5410 Incl.

FLOSSENBURG

Case No. .....

*~~Summary~~ ~~Intermediate~~ Military Court.
*General

Place ...DACHAU, GERMANY.....

Date ..... 21 October 194 6

~~Recorder/Court~~
WITNESSES:

ALOIS BONNAUER

WILHELM HARTMANN

ADOLF KUEFNER

Prosecutor.....

Defence Counsel .....

Interpreter .....

Reporter.....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term.....
  - Beginning ..... 194.....
- Fine
  - Amount.....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

21 October 1946 0900 - 1700 hours Pages 5342 - 5410 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
ALOIS BONNAUER	5342	5345		5350	5347 5352
WILHELM HARTMANN	5360	5364			
ADOLF KUEFNER	5367	5372	5374		5387

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-28	Statement - Bonnauer	5344	5347
D-28-A	English translation	5344	
D-29	Map	5367	

Camp Dachau, Germany
21 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0920 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Mr. McKay who is absent on business of the accused; all the accused are present with the exception of Jalubith, Olschewski, Vatzke, Lipinski, Oswalt, Buddensieg and Siebusch, who are in the hospital and Retzleff who is conferring with counsel. The interests of those named accused are being taken care of by their counsel.

Any spectators who are present and who expect to be called as witnesses will please leave the courtroom.

PRESIDENT: The court has appointed Paula Silverman as reporter. She will be sworn.

(Whereupon Paula Silverman was duly sworn as reporter.)

ALOIS BONNAUER, CALLED AS A WITNESS BY THE DEFENSE, BEING FIRST DULY SWORN, TESTIFIED THROUGH AN INTERPRETER AS FOLLOWS:

DIRECT EXAMINATION

Questions by Mr. Hall:

Q Please state your name.

A Bonnauer.

Q Your age?

A 62 years old.

Ca p Dachau, Germany
21 October 1946

Q In what town do you reside?

A Near Burgeusen..

Q What is your first name?

A Alois.

Q What is your occupation?

A Farmer.

Q Your nationality?

A Bavarian, German.

Q Do you know a man by the name of Fahrnbauer?

A Yes.

Q Will you please look over the prisoners and identify him if you can?

A Here he sits. (indicating)

Q Let the record show the witness has correctly identified the accused, Fahrnbauer, No. 11.

Prior to coming to Dachau, when w s the last time that you saw Fahrnbauer?

A The 4th of May.

Q Who was with Fahrnbauer?

PRESIDENT: Just a minute, have the witness indicate the year.

A '45.

Q Who was with Fahrnbauer at that time?

A Guth and Sendel.

Q Do you know Guth's first name?

Camp Dachau, Germany
21 October 1946

A No, I don't know his first name.

Q Do you know Sendel's first name?

A No, I don't know that, either.

Q Reporter, please mark this Exhibit 28 for identification. (Whereupon the reporter marked Exhibit 28 for identification.) I show you Defense Exhibit 28 for identification and ask you whether you have ever seen th t before?

A Yes.

Q What is that?

A That was when Fahrnbauer was quartered with me.

Q What is the document itself?

A He gave his car over to me and he noted the day that he went away from me again.

Q Whose signature appears on Defense Exhibit 28?

A My signature, Alois Bonnauer and Sgt. Fahrnbauer.

Q You stated Fahrnbauer left your house on the 4th of May 1945. About when did he arrive at your house?

A On the 1st of May. I can't give you the exact hour.

Q The 1st of May what year?

A '45, between 4 and 5 o'clock.

Q Do you know from where they had come?

A From Burgausen.

Q What did Fahrnbauer do during those three or four days he was at your house?

A I didn't have much contact with him. I always had to take care of my work and Fahrnbauer would hang around with the neighbors there.

Q Do you know what he did with the neighbors?

A He listened to the neighbor's radio.

Q During the time that Fahrnbauer was at your house, what did you see in the vicinity of your home with reference to prisoners?

A I didn't see anything.

Q How did Fahrnbauer happen to get to your house?

A Because they couldn't go on any longer. American tanks were behind them.

Q What authority did he have to come to your house?

A He had a certificate from the community which authorized him to seek quarters by me.

Q You may cross-examine.

PROSECUTION: May we have one moment?

PRESIDENT: Yes.

CROSS EXAMINATION

Questions by prosecution:

Q Mr. Bonnauer, from whom did Fahrnbauer have this certificate entitling him to quarters?

A From the mayor. The name of the community was Reitenhauslach.

Q Where is Reitenhauslach located with respect to your home?

A The community Reitenhauslach is about 20 or 25 minutes away from me.

Q In what direction?

A In the direction of Murrhausen.

Q How far is it from St. Sebastian?

A I don't know.

Q How far is it from Ergenfelden?

A I don't know that either.

Q How far is it from Pirach?

A 20 minutes.

Q Is it east of Burgausen or west from Burgausen?

A West of Burgausen.

Q How far is it from Alt Oetting?

A 15 kilometers to Alt Oetting.

Q What was the date on this certificate?

A It said on this certificate the 4th of May Fahrnbauer got quarters. Pardon me, I made a mistake, I meant to say the 1st of May.

Q Was that the date the certificate was given or was that the date it became effective?

A That was the date when this certificate became effective, the 1st of May.

Q You don't know what date it was actually given to Fahrnbauer by the burgomeister?

A The date was the 1st of May. That was the date on the certificate.

Q All right, sir. Now, do you know the route of march these prisoners took in the evacuation of Flossenburg?

A I don't know.

Q Do you know the route of march they took from Plattling?

A I don't know. They came to me from Burgausen, that way.

Q When was it they came to you from Burgausen?

A I don't know exactly, between 4 and 5 o'clock.

Q On what day?

A That was the 1st of May.

Q I'm talking about the prisoners, Mr. Bonnauer.

A I don't know anything about the prisoners.

Q Did you ever, at any time, see any of the prisoners that came from Plattling?

A I didn't see anything.

Q No further questions.

MR. HALL: I offer in evidence Defense Exhibit 28.

PROSECUTION: No objections.

MR. HALL: I also offer in evidence Defense Exhibit No. 28a. 28a is a translation of 28.

PROSECUTION: No objections

PRESIDENT: Mr. Hall, Defense Exhibits 28 and 28a indicate that the interpreter, Karl Theut was sworn in according to statement but there is no indication of his having been sworn.

MR. HALL: I withdraw my offer of Defense Exhibit 28a for the time being.

PRESIDENT: That applies to 28 and 28a, is that indicated?

MR. HALL: I'm only withdrawing 28a. 28 is the original document.

PRESIDENT: Subject to any objections on the part of any of the members of the court the court accepts Exhibit 28 IN EVIDENCE and will give such weight to it as the court sees fit.

(The document heretofore marked Defense Exhibit 28 for identification was received in evidence as Defense Exhibit 28, is attached hereto and made a part of the record.)

DEFENSE: No further questions.

PRESIDENT: Any questions by members of the court?

EXAMINATION BY THE COURT

Questions by Law Member:

Q How many people were in Fahrnbauer's group when he came to your house?

(Bonnauer-Court)

A Three men.

Q How many automobiles?

A One car.

Q Was there only one automobile there during the three or four days they were at your house?

A Yes, one car.

Q What portion of the time were they there or were they away during that time?

A They were away -- Guth went away on the 3rd of May and Sendel went away on the 3rd of May, also.

Q Did they come back?

A They went home.

Q And Fahrnbauer? I understand he didn't leave until the next day, is that correct?

A Yes. Fahrnbauer shoved off on the 4th.

Q How did he leave?

A He went away alone about 7 o'clock in the morning?

Q By automobile or what?

A On foot.

Q You apparently overlooked my one question. I wanted to get how much of the time were they at your house during the 3rd or 4th of May?

A Sendel and Guth were always there but Fahrnbauer was always listening to the radio in the house of a neighbor.

Q Aside from listening to the radio in the house of a neighbor, did Fahrnbauer go off any distance?

A No, I didn't see anything else like that.

Questions by President:

Q Just how much did you see of Fahrnbauer on May 1st?

A In the evening he had already taken his quarters with me on the 1st of May.

(Bonnauer-Court)

Q How much was he around the house on the 1st of May?

A He arrived between 4 and 5 and he stayed there until the evening until we went to bed and he went to bed, too.

Q What time was that?

A Around 9:30.

Q He didn't leave the house that night to listen to the radio?

A No.

Q How much did you see of him the next day?

A I saw him in the morning when he drank coffee and saw him at lunch and at supper in the evening.

Q Then the court understands that you did not see him between breakfast and lunch?

A Yes, because I was at my own work.

Q You didn't see him between lunch and dinner that night?

A Yes. He went off to hear his radio again and I saw him leave.

Q What did he do that night, the night of the 2nd?

A He was with me again at home.

Q What happened the next day, when did you see him that time?

A He was with me every evening. He was always there in the evening.

Q What time did he leave on the 4th?

A Around 7 o'clock in the morning.

PRESIDENT: Any further questions by members of the court?

Questions by Lt. Col. Skielvig:

Q Did Fahrnbauer ever use the truck after he arrived at your place?

A No.

(Bernauer-Court

Q Did he ever use a bicycle or ever ride off in a car with anyone else?

A No.

Q No further questions.

Questions by the President:

Q How do you know that?

A The car was standing in my barn.

Q You said the car never left?

A I'm sure of that.

Q Any further questions by members of the court? Apparently not. Redirect?

MR. HALL: No questions.

PRESIDENT: Prosecution?

RECROSS EXAMINATION

Questions by prosecution:

Q Yes. Mr. Bonnauer, did you do your work at the house or away from the house?

A Around 10 minutes away from the house, in a field house.

Q Were you able to observe your house and that truck the entire time while you were at your work?

A Yes.

Q It was 10 minutes away from where you were working, is that correct?

A Yes, around 10 minutes.

Q Did these men, Fahrnbauer, Guth and Sendel, discuss the evacuation of Plattling at any time that they were there?

A No, they didn't discuss it.

Q Let the record show that Kisbrusch has returned to the dock. Did you know that they had formerly been with the concentration camp?

A No, I did not.

Q They never told you?

A No, they didn't say anything.

Q What did you discuss?

A They only talked about how they could get back home as quickly as possible.

Q They never said where they had been?

A No, they only talked about the fact they wanted to get here as quickly as possible and they would be glad when the war was over.

Q Where was the radio where Fahrnbauer went to listen?

A About 10 minutes away.

Q Was it next to your work or away from it?

A It was almost next to my place of work.

Q You saw Fahrnbauer there listening to the radio, is that correct?

A Yes.

Q What was the name of the person in whose house this radio was located?

A He asked me whether I had a radio. He wanted to listen to the radio. I said I didn't have any myself and told him to go to the nearest neighbor.

Q What was the name of the neighbor?

A Schmelz.

Q How many kilometers does he live from you?

A Ten minutes.

Q When you say 10 minutes is that 10 minutes walking or 10 minutes riding?

A On foot, yes.

Q In which direction from your home?

A To the west.

(Fahrnbauer-Recross)

Q Do you know Mr. Schrels's first name?

A Sebastian.

Q Is he living over there at the present time?

A Yes and his address would be Sebastian Schrels, Burgausen, Seefelden, Post Office Pirach, near Burgausen.

Q That is all.

PRESIDENT: Redirect?

DEFENSE: No questions

RE EXAMINATION BY THE COURT

Questions by the President:

Q Just what time of day was it Fahrnbauer used to go to the house nearby and listen to the radio?

A In the forenoon and in the afternoon.

Q Did you actually see him go over there each time?

A Yes.

Q How do you know he stayed right there?

A I saw him go in at the door and I saw him come out the door again.

Q Any further questions by members of the court?

Questions by Col. Jackson:

Q How far was the radio from the place of your work?

A About 5 to 10 minutes because my field is bounded by the neighbor's, almost.

Q How many meters would you say it was?

A 400 meters.

PRESIDENT: Any further questions by members of the court? Apparently not. Prosecution?

PROSECUTION: Nothing further.

PRESIDENT: Defense?

MR. HALL: No.

PRESIDENT: Do you desire him to be retained here?

(Bonnauer-Re exam by Court)

DEFENSE: No, sir.

PRESIDENT: The witness is excused and may return to his home. The court will take a half hour's recess.

(Whereupon the court recessed at 1000 hours.)

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Floss.

Camp Dachau, Germany
21 October 1946

MORNING SESSION (Continued)

(Whereupon the court reconvened at 1030 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, let the record show that all the members of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present, with the exception of Colonel Wilson, Mr. McKay, and Dr. Wacker who are absent on business for the accused; all the accused are present, with the exception of Jakubith, Olschewski, Matzke, Lipinski, Oswalt, Buddensieg, who are sick in the hospital, and Retzlaff who is conferring with counsel, and whose interests are being taken care of by counsel. If there are any spectators present in the court room who expect to be called as witnesses, will they please leave the court room.

PRESIDENT: The court will recess.

(Whereupon the court recessed in place and reconvened at 1040 hours.)

PRESIDENT: Let the record show that Sgt. Peter Ackerman who appeared as interpreter was not sworn, and was ordered to leave the court room inasmuch as he was not in proper uniform owing to lack of insignia and proper chevrons. The court will come to order. Mr. Hall.

MR. HALL: Call Paul Kawetski.

PRESIDENT: The court will recess.

(Whereupon the court recessed in place and reconvened at 1045 hours.)

PRESIDENT: The court will come to order.

PAUL KAWETSKI, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

(Kawetski-Direct)

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Kawetski, Paul.

Q Your age.

A 57.

Q Your nationality.

A German.

Q What was your civilian occupation?

A Locksmith.

Q You are a prisoner of the Americans here in Dachau, is that correct?

A Yes.

MR. HALL: Does the court desire to advise the accused of his rights?

PRESIDENT: You are cautioned that if you should be asked any question that might tend to incriminate you during the time you are before this court as a witness - you have the permission of the court to ask to refrain from answering it. The court is referring to any question which might tend to incriminate you.

THE WITNESS: Yes, if I cannot answer the question.

PRESIDENT: That is not the case. If you should be asked any question which might tend to incriminate you, you have the permission of the court to ask the court to refrain from answering that question. How the court understands your present status is that of a prisoner in Dachau.

THE WITNESS: Yes.

PRESIDENT: The court is simply advising you that if you should be asked any question that might tend to incriminate you during the time you are on the stand here, you may ask the court for permission not to answer it so as not to incriminate yourself. Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Proceed Mr. Hall.

QUESTIONS BY MR. HALL (Continued):

Q Do you know a man by the name of Roller?

A Yes.

Q Please look over the prisoners and see if you can identify him.

A Number 39.

MR. HALL: Let the record show that the witness has correctly identified the accused Roller as number 39.

QUESTIONS BY MR. HALL (Continued):

Q Were you ever located at Camp Langenfeld, an out-camp of Flossenburg?

A Yes.

Q When did you leave Langenfeld?

A On the 12th or 14th of April 1945.

Q Who left Langenfeld with you at that time?

A All the guards and the prisoners.

Q Who was in command of the column when you left Langenfeld?

A Roller.

Q Who was in command of the column the next day?

A Roller also.

Q Whom did you meet on the way?

A On the way?

Q Yes.

A The ßZwickau detail. That was on the place where we gathered together.

Q Whom do you mean by "we gathered together"?

A I don't understand you.

Q Well who was this ßZwickau commando leader?

A There were prisoners there, guards and a detail leader.

Q Do you know the name of the detail leader of this ßZwickau detail?

A No.

Q Did you ever hear him say anything after he arrived?

PROSECUTION: I object to that on the grounds that it is leading and suggestive.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. HALL (Continued):

Q Who was in command of the column after this ßZwickau detail arrived?

A The leader of the ßZwickau detail called the guards together and he really gave it to us. He scolded us very badly and he said, "The war is not yet lost for Germany".

Q Continue.

A "The war is not yet lost for Germany. We are

still soldiers and we have to fulfill our duty", and he said, "I am in charge of this detail".

Q What guards were present at that conversation?

A The whole guard detail from Langenfeld was there.

Q How long were you with this column altogether, do you recall?

THE WITNESS: How long I was with this column?

MR. HALL: Yes. How many days would you say?

THE WITNESS: I don't get you. You mean from the place where we gathered?

MR. HALL: Yes, from the place where you gathered.

THE WITNESS: Until the end? I just don't follow you there.

MR. HALL: How many days were you with the column after this conversation was held by this Zwickau sergeant?

THE WITNESS: Until the 18th of April 1945.

QUESTIONS BY MR. HALL (Continued)

Q Now how did you happen to leave the column on the 18th of April or thereabouts, 1945?

A A truck on the highway when we were marching ran into me. I had a skull injury and a left rib injury.

Q What happened to you after that?

A They took me to a hospital in a horse and wagon.

Q From the time you heard this speach by the Zwickau sergeant until the time that you left the column, who was in command of the column?

(Kawetski-Direct)

A Both detail leaders were there then.

Q How often did you see Roller during that period of time?

A He disappeared once for 1 hour or 2 hours and then he came back again.

Q I don't suppose you know what he did during those hours of absence.

A No I don't know what kind of function he had then.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination, Mr. Denson?

PROSECUTION: No questions.

PRESIDENT: Are there any questions by members of the court? Apparently none. Redirect?

MR. HALL: Nothing further sir.

PRESIDENT: Cross examination?

PROSECUTION: Nothing further.

PRESIDENT: Have you finished with this witness, Mr. Hall?

MR. HALL: Yes sir.

PRESIDENT: Do you desire to have this witness returned to his home?

MR. HALL: He is a prisoner, sir.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and left the court room.)

MR. HALL: Call Willi Hartmann.

(Kawetzki-Direct)

A Both detail leaders were there then.

Q How often did you see Roller during that period of time?

A He disappeared once for 1 hour or 2 hours and then he came back again.

Q I don't suppose you know what he did during those hours of absence.

A No I don't know what kind of function he had then.

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PRESIDENT: Cross examination, Mr. Denson?

PROSECUTION: No questions.

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MR. HALL: Nothing further sir.

PRESIDENT: Cross examination?

PROSECUTION: Nothing further.

PRESIDENT: Have you finished with this witness, Mr. Hall?

MR. HALL: Yes sir.

PRESIDENT: Do you desire to have this witness returned to his home?

MR. HALL: He is a prisoner, sir.

PRESIDENT: The witness is excused.

(Whereupon the witness was excused and left the court room.)

MR. HALL: Call Willi Hartmann.

(Kawetski-Direct)

WILHELM HARTMANN, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Hartmann, Wilhelm.

Q Your age.

A 50 years old.

Q Your occupation when you were a civilian.

A Master painter.

Q Your nationality.

A German.

Q Were you stationed at Camp Flossenburg at one time?

A The 16th of December 1941 I was sent over there, drafted over there.

Q When did you leave Flossenburg for the last time?

A On the 20th of April 1945.

Q Do you know a man by the name of Keiling?

A Yes.

Q Please look over the prisoners and identify him if you can.

A Yes, number 22.

MR. HALL: Let the record show the witness has correctly identified the accused Keiling as number 22.

PRESIDENT: The court understands that this man

is a prisoner.

MR. HALL: You are a prisoner of the Americans here in Dachau, is that correct?

THE WITNESS: Yes I am here.

PRESIDENT: The court at this time desires to caution you, Hartmann, that if at any time that you are on the stand you are asked a question which might tend to incriminate you, you have the right to ask the court to refrain from answering that question. Do you fully understand?

THE WITNESS: I think I do.

PRESIDENT: You'd better explain it a little further.

(Whereupon the interpreter further explained to the witness his rights as a prisoner.)

PRESIDENT: Do you fully understand?

THE WITNESS: Yes.

PRESIDENT: Mr. Hall proceed.

QUESTIONS BY MR. HALL (Continued):

Q Now approximately what time did you leave Flossenburg on the 20th of April 1945?

A It was around 3 o'clock when I left the camp itself.

Q With whom did you leave?

A First of all, I went out of the camp alone; then I went to my acquaintances in the village and from there I went to the family of a top sergeant, and then the 2 of us shoved off from Flossenburg together.

Q Whom do you mean, "the 2 of us shoved off from Flossenburg together"?

A I and this top sergeant.

Q Who was the top sergeant?

A Becker.

Q What is his first name?

A Adolf.

Q What means of transportation did you use at that time?

A We went on foot but,of course, we had our bicycles along with us.

Q For what town were you heading?

A The word went around that in general we would all end up in Dachau.

Q Whom did you see along the way that you knew?

A I met Keiling on the way.

MR. HALL: I show you Defense Exhibit No. 29 for identification and ask if you know what it is.

THE WITNESS: That is a map. It is a drawing of a map.

MR. HALL: Will you please point out Flossenburg if you see it on that map?

THE WITNESS: Around here (indicating).

MR. HALL: All right now, by means of this red pencil please mark the route that you took when you left Flossenburg. You may go over to that table if you wish.

THE WITNESS: I can do it all right.

MR. HALL: Just mark it with the red pencil.

THE WITNESS: I came down to here, down to this point (indicating).

MR. HALL: All right now will you please mark on that map the letter X with red pencil at the point where you first saw Keiling, approximately the point.

THE WITNESS: That is around here (indicating).

QUESTIONS BY MR. HALL (Continued):

Q Now when you saw Keiling, with whom was he walking?

A He was behind the troops.

Q What kind of troops?

A Whether they were infantry or mobile artillery I don't know. There were wagons along with them.

Q Where were the prisoners at that time?

A I don't know.

Q About how long were you with Keiling?

A A good hour at least, or maybe an hour-and-a-half.

Q On what day was it that you met Keiling at this place?

A That was during the night between the 20th and 21st of April.

Q About what time in the evening did you meet him?

A I can't give you the exact hour anymore. At any rate, it was already dark.

Q What means of transportation was Keiling using at that time?

A Keiling went on foot and was pushing his bicycle.

Q During the time that you saw Keiling that evening, where were the prisoners?

A I don't know.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Did you see the prisoners at the time they left Flossenburg?

A Yes up in the camp.

Q After they got marching on the road did you see them?

A Yes I saw one transport on the morning of the 22nd of April.

Q You did not see the prisoners march out of the camp, is that correct?

A No.

Q Do you know what route the prisoners followed?

A Yes the word went around that the route which we had taken at the beginning with the troops to CHAM would eventually take us to Dachau and we should stick to this route.

Q Well did you follow the same route that the prisoners followed?

A I don't know that exactly whether they took another route later or not.

Q Well up to the point that you saw Keiling did you follow the same route that the prisoners had followed?

A Apparently yes.

Q How do you know that?

A On the way you would see all kinds of pieces of clothing lying on the ground; knapsacks, things like that.

Q Any bodies?

A No I didn't see any bodies.

Q Were you in the death's head of the SS?

MR. HALL: I object to the question as immaterial.

PRESIDENT: The objection is over-ruled.

THE WITNESS: Yes on the 16th of December 1941 I was drafted to Flossenburg to the death head unit.

QUESTIONS BY THE PROSECUTION (Continued):

Q What rank did you achieve in the death's head unit of the SS?

A In the last world war I served as a technical sergeant and was released as a technical sergeant, and so I maintained the same rank when I was redrafted.

Q Well what was the highest rank that you held in the death's head unit of the SS?

A First sergeant; that was the rank which was awarded me.

Q And were you senior or junior to Keiling?

A According to our ranks he was my superior.

Q At the time that you saw Keiling was he armed?

(Hartmann-Cross)

A He had a little pistol with him.

Q How was he dressed?

A Field gray uniform. I believe he had a raincoat, boots.

Q Who was in command of that column, if you know?

A I don't know. I only know that on the morning of the 22nd of April when I saw these troops drawn up on the highway there I saw Sergeant Skierka along with them.

Q These troops that were there at that time were SS troops, were they not?

A Yes there were SS troops there and part of them were from the air force.

Q Was the hour that you spent with Keiling the only time that you had seen him up to that time?

A Yes. I didn't see him again until the morning of the 23rd after that.

Q Was that between the time the column left Flossenburg? You only saw him one time for an hour up to the 23rd day of April, is that correct?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. HAIL: Nothing sir.

PRESIDENT: Are there any questions by members of the court? Apparently none. Anything further prosecutor?

PROSECUTION: Nothing further.

PRESIDENT: Anything further from the defense?

MR. HALL: Nothing further sir.

PRESIDENT: The court understands that the defense is finished with this witness.

MR. HALL: Yes sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room.)

MR. HALL: I offer into evidence Defense Exhibit No. 29.

PRESIDENT: IS there any objection on the part of the prosecution?

PROSECUTION: No objection sir.

MR. HALL: If the court please, I will need 1 minute before the next witness.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed in place and reconvened at 1115 hours.)

PRESIDENT: The court will come to order.

MR. HALL: I withdraw my offer of Defense Exhibit No. 29 at this time. I now call Adolf Kuefner.

ADOLF KUEFNER, formerly a witness for the prosecution, was called as a witness by the defense and being reminded that he was still under oath, testified through an interpreter as follows:

PRESIDENT: Mr. Kuefner, you have previously appeared before this court as a witness, have you not?

THE WITNESS: Yes.

PRESIDENT: The court cautions you that you are still under oath. Take the witness stand.

THE WITNESS: Yes.

(Kuefner-Direct)

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q While at Flossenburg, Mr. Kuefner, did you know a man by the name of Keiling?

A Yes.

Q Look over the prisoners and identify him if you can.

A He has his number turned around; 22.

MR. HALL: Let the record show that the witness has correctly identified the accused Keiling as No. 22.

QUESTIONS BY MR. HALL (Continued):

Q What is your full name, Mr. Kuefner?

A Adolf Kuefner.

Q Are you the same Adolf Kuefner who has previously testified for the prosecution as a witness in this case?

A Yes.

Q When did you first become acquainted with Keiling?

A That was around the beginning of 1943 in department 6 in Flossenburg.

Q What was that year again?

A The beginning of 1943.

Q Will you please describe the circumstances under which you became acquainted with Keiling?

A In department 6 we also had an instrument division and any SS man who could play a musical instrument

could take part in that and according to our duty, every time an SS man came into this department we had to stand stiff at attention until the SS man in charge gave us the order that we could sit down again, and the first time that Keiling ever came into department 6 he made the remark that from then on whenever he came into the department alone we did not have to stand up, we could keep our seats; and besides that I had to distribute newspapers from department 16 to all the command posts and to the quarters where the people were quartered and slept.

Q Department 6 or 16?

A Department 6, and while I was carrying out this duty I would daily go into the quarters of storm sergeant Keiling, except for Sundays. In this activity I saw Keiling every day repeatedly and I never could determine that Keiling had ever acted in a discriminatory nature towards any prisoners or acted badly in any way. On the contrary I was able to determine that Keiling would support them, give them things in his quarters or through the windows when he made his official rounds. First I thought that he was doing that like most of the SS men did it. He would pick out some certain individuals in order to favor them so that he would acquire certain protection for himself. But I found out differently. I found out that he would give bread and whatever he could not only to Germans who had

important positions, but to Russians, Poles, or people of other nationalities, and beside that, next to this department 6 there was a so called museum. In this museum there were various papers, official documents kept, and among other things the records of the leader of the security service, and in these records, whoever was the leader of the security service at that time had to make official reports about his activities while he held this office. I carefully searched these books and I never saw the name Keiling in connection with any report of misdemeanor.

Q Any report against whom?

A In the course of duty whenever anyone made an attempt to escape or did escape, that would have to be reported in detail in the records.

Q Well whom are these reports concerning, the SS personnel or the prisoners at Flossenburg?

A Prisoners. He had to report everything in this book in regard to prisoners or the SS if there was any misdemeanor committed at all.

Q Do you have anything else you wish to say, Mr. Kuefner?

A I know that he had a chance to make various reports. Later on I had a chance to observe him in the area around the officers quarters where he later on had his own quarters, but I never heard or saw that he made any report.

MR. HALL: Let the record show that the accused Retzloff has returned to the dock.

QUESTIONS BY MR. HALL (Continued):

Q When was the last time that you were with a group of former prisoners of Flossenburg?

A In April 1945.

Q And where?

A In Flossenburg.

Q Who had control of Flossenburg at that time, what government?

A As far as I know, Neustadt on the Weidnapp River.

Q You mean the German government then.

A Yes.

Q What rumors have you heard concerning mistreatment of prisoners by Keiling? I withdraw the question. What have you heard in connection with the mistreatment of prisoners by Keiling?

A During the whole time I was with Keiling I never heard anything bad about that. It wasn't until I got here that I found out that Keiling was supposed to have committed some misdemeanor, and in fact a deadly one, but before that I never knew that he had any charges against him at all.

Q Now Keiling was an SS man, is that correct?

A Yes.

Q And you were a prisoner?

A Yes.

MR. HALL: Let the record show that the accused Retzloff has returned to the dock.

QUESTIONS BY MR. HALL (Continued):

Q When was the last time that you were with a group of former prisoners of Flossenburg?

A In April 1945.

Q And where?

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Q Who had control of Flossenburg at that time, what government?

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Q Now Keiling was an SS man, is that correct?

A Yes.

Q And you were a prisoner?

A Yes.

MR. HALL: You may cross examine.

PRESIDENT: Cross examination?

CROSS EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q You know nothing about Keiling's activities on the evacuation march from Flossenburg, do you?

A No, I didn't see him then.

Q When you were checking these books were you checking them specifically for reports made by Keiling?

A I was looking at those things since the year 1943 and if it had been Keiling or anyone else I would have known about it.

Q You mean you were looking at them generally or specifically with respect to reports made by Keiling?

A I wasn't looking for reports in regard to Keiling in particular. I was looking for reports in general, death reports which had cropped up and I wanted to find out who had made these reports.

Q And these were reports of prisoners who had died, is that correct?

A Yes.

Q Who were some of the names that you saw there?

A I can't remember anymore names of the leaders of the security service there, but as a rule the text of such reports would be like this: Around 10 o'clock, 10 minutes after 10, prisoner with such and such a number was shot to death while attempting to escape and then

there would be a remark who had shot him, and there was a signature then of the leader of the security service.

Q At this time was Keiling serving as a member of the security service?

A Yes Keiling together with top sergeant Schwanner, and then there was another SS man there who would relieve the other men from time to time. I don't know his name anymore exactly.

Q Were you looking for the name of Keiling as the man who had done the shooting or as the man who had signed the report that someone else had shot a particular prisoner?

A No, I was just trying to find out how these people behaved when we were not there because it often happened that an SS man would be very decent to our face and did us dirt behind our backs.

Q Do you mean to tell the court then that Keiling had not reported any SS man for shooting a prisoner during that time?

A His name was never mentioned in connection with a shooting to death or anything of that nature in this book which covered a period of time 8 or 9 months.

Q But it was up to Keiling as a member of the security service to make the report concerning the prisoner's name and the SS man who had shot a prisoner, is that correct?

A Yes, that should have been in there and the

number of the prisoner also had to be named.

Q Were prisoners shot to death by SS during that period of time?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

MR. HALL: Yes sir.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Did you observe from the record that Keiling had failed to report an incident involving the death of a prisoner by an SS man?

PROSECUTION: I object to that on the grounds that it is leading and suggestive.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. HALL (Continued):

Q You mentioned on cross examination that you did not know or hear of anything in connection with Keiling's activities on the evacuation march.

A Yes.

Q Were you ever in a position to hear one way or the other?

A You could have found out about it only by listening to prisoners who had related incidents that had happened, the prisoners who had been on the march themselves, but that was very hard for me because we ourselves were not with the transport at all.

(Kuafner-Redirect)

Q Well what did you ever hear from prisoners one way or another subsequent to the transport?

A In this case nothing.

MR. HALL: That is all sir.

MR. O'CONNOR: If the court please.

PRESIDENT: Mr. O'Connor.

MR. O'CONNOR: I'd like briefly to cross examine this witness on behalf of the accused Skierka, Schubert, and Mohr officially.

PROSECUTION: May it please the court, I object to cross examination with respect to those individuals. I don't believe he has testified as to Skierka, or Schubert, or Mohr.

MR. O'CONNOR: May it please the court, at the time the prosecution put on its case I was not present and this witness testified for the prosecution and made serious charges against the accused Skierka, Schubert, and Mohr, and I'd like to have the opportunity to cross examine at this time because I was not here then.

PRESIDENT: The court understands, Mr. O'Connor, that you are not referring to the present testimony of this particular witness. Are you referring to a previous time when this particular witness Kuefner appeared before this court as a prosecution witness?

PROSECUTION: May it please the court, as I recall at that time Skierka, Schubert, and Mohr were all represented by competent counsel, and as I understand it,

he is still counsel in the case. Now, of course, every time a new counsel is added, if we are going to subject witnesses who have previously testified to additional cross examination by new counsel that has been added, there is no telling when this case will be terminated.

MR. O'CONNOR: If the court please, I know of no rule which prohibits the recalling of any witness.

PROSECUTION: I do not deny that, may it please the court, but I believe it is a rather peculiar time at this particular stage of the proceedings when this witness has been put on the stand on behalf of the accused.

PRESIDENT: The court will take a short recess and during that time I wish the reporter would check the testimony of this particular witness to see definitely if Skierka, Schubert, or Mohr were mentioned, particularly Skierka during the testimony of this particular witness this morning.

(Whereupon the court recessed in place and reconvened at 1145 hours.)

PRESIDENT: The court will come to order. The court would like to have a report from the reporter at the present time concerning the testimony of this particular witness.

(Whereupon the reporter informed the court that the accused Skierka, Schubert, and Mohr were not mentioned by the witness in his testimony during the current session, but reference was made to a person named Schwanner.)

PRESIDENT: The court will be closed.

(Whereupon the court closed at 1146 hours.)

(Whereupon the court reopened at 1150 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present; all personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business for the prosecution; all personnel of the defense are present; all the accused are present, with the exception of Jacubith, Olschewski, Matzke, Lipinski, Oswalt, and Buddensieg who are sick and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators present in the court room who expect to be called as witnesses, will they please leave the court room.

PRESIDENT: The objection of the prosecution, Mr. Denson, is sustained. At the same time, Mr. O'Connor, the court appreciates your position - the fact that you came to the case late and the fact that you were not present during the time that this particular witness was formerly on the stand as a prosecution witness. However, during that particular time, the defendants that you mentioned were duly represented by counsel and an opportunity was afforded to the defense counsel at that time for cross examination. However, Mr. O'Connor, the court will advise you that the court plans to recall this particular witness as a court witness.

MR. O'CONNOR: Well this witness has mentioned the defendant Schwanner in his testimony so I will limit my cross examination to Schwanner.

PRESIDENT: Proceed.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Kuefner, when you testified that you saw Mr. Schwanner on the march, where were you?

PROSECUTION: I object to that, may it please the court. I don't believe he testified to that. I believe he testified that Schwanner was also operating as a member of the security service.

MR. O'CONNOR: All right, I'll withdraw that.

QUESTIONS BY MR. O'CONNOR (Continued):

Q How did you know that Schwanner was operating as a security guard on the march?

PROSECUTION: I object to that, may it please the court, on the grounds that he did not say that he was on the march at all. His testimony was, as I recall, that Keiling and Schwanner and another man whose name he did not recall, were operating as members of the security service in the keeping of those documents, and that was all.

PRESIDENT: The court will recess.

(Whereupon the court recessed in place and reconvened at 1200 hours.)

PRESIDENT: The court will come to order. Will the reporter read the last question please?

(Kuefner-Redirect)

(Whereupon the reporter read the question.)

PRESIDENT: Now will you read the objection by the prosecution please?

(Whereupon the reporter read the objection of the prosecution.)

PRESIDENT: The objection of the prosecution is sustained. The court will recess until 1:30 this afternoon.

(Whereupon the court recessed at 1205 hours.)

Camp Dachau, Germany
21 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1345 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present, with the exception of Buddensieg, Oswalt, Jakubith, Olschewski, Lipinski and Watzke who are sick in hospital. The interests of the named accused are being taken care of by counsel. The interpreter and the reporter are also present.

The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PROSECUTION: May this interpreter be sworn?

PRESIDENT: The court has appointed Peter Ackerman as interpreter and he will be sworn.

(Whereupon Peter Ackerman, U. S. civilian, was duly sworn as interpreter.)

PRESIDENT: Mr. O'Connor, continuation of cross-examination.

MR. O'CONNOR: Yes, sir, it is cross.

ADOLF KUPFER, formerly a witness for the prosecution, and having been called as a witness by the defense, being reminded that he was still under oath, testified further through an interpreter as follows:

Camp Dachau, Germany
21 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1345 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present, with the exception of Buddensieg, Oswald, Jakubith, Olschewski, Lipinski and Hatzke who are sick in hospital. The interests of the named accused are being taken care of by counsel. The interpreter and the reporter are also present.

The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PROSECUTION: May this interpreter be sworn?

PRESIDENT: The court has appointed Peter Ackerman as interpreter and he will be sworn.

(Whereupon Peter Ackerman, U. S. civilian, was duly sworn as interpreter.)

PRESIDENT: Mr. O'Connor, continuation of cross-examination.

MR. O'CONNOR: Yes, sir, it is cross.

ADOLF KUPFNER, formerly a witness for the prosecution, and having been called as a witness by the defense, being reminded that he was still under oath, testified further through an interpreter as follows:

RE-DIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Kuefner, prior to the noon recess, upon cross-examination by Colonel Denson, I believe you testified concerning the activities or duties of the accused Schwarmer with reference to the keeping of the records, is that correct?

A As leader of the security service.

Q In what year?

A In the case of Schwarmer, I know it was approximately the end of 1944?

Q Kuefner, do you know the meaning of an oath?

A Yes.

Q You understand that you are under oath, don't you?

A Yes.

Q Were you ever tried and convicted?

A Yes.

Q By an American military court on the charge of perjury?

A No.

Q Have you been tried by an American military court on any charge?

PROSECUTION: I object to this line of questioning on the grounds of repetition.

PRESIDENT: In what respect?

PROSECUTION: All of this, may it please the court, was gone into when Kuefner first testified before this court. If I am not mistaken, Colonel Wilson was present at the time and Mr. McKay, as I recall was present; and Mr. Hall, -- I am not so sure. It was on the 16th of July when this took place.

PRESIDENT: Of course, Mr. Prosecutor, there is a strong possibility there could be some new evidence brought out on this line of questioning, and at this time, the court would like to inquire from Colonel Wilson whether there is any new evidence to

be brought out along that line. The court is referring to the matter, naturally, of the credibility of the witness.

DEFENSE: May it please the court, I presume that I was personally here on the 16th of July, but I do not recall that this subject was gone into at the time. I certainly am not questioning Colonel Denson's word, but I have no recollection of it. I think the record of that date would speak for itself. I have looked very recently at some extensive transcripts, made up as part of the record, but they are not complete, of course. I assumed that this information we are working on now is material. Prior to refreshing my memory, I do not recall that it was in hand at the time of the previous testimony of this witness; but everything I say is subject to correction. I am going from my memory which, of course, may not be correct.

PROSECUTION: If Mr. McKay will tell the court why the matter was gone into and that it was gone into, I will maintain my objection; if not, I will withdraw my objection.

PRESIDENT: The court would like to call upon Mr. McKay as to a statement.

MR. MCKAY: As I recall the incident which occurred before, at the time I sought to go into this particular matter with this witness, the court advised me at that time that if I went into it, it would only be as to all the character, as to all the witnesses which I represented, and at that time I withdrew any further inquiry leaving myself the opportunity to seek and find if there was any record of such matters which could be brought before the court. Therefore, I did not ask him any questions for the reason I did not want to comply with the policies then stated by the court, for the reason that it would open up the question of the character of all my witnesses.

PROSECUTION: I would like to state this: That it is as Mr. McKay stated. On page 1582 of the record this question was asked:

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"Have you ever been convicted by an American military government court for any statement which you have made since your release from Flossenburg?" And there followed considerable argument, may it please the court, down to page 1590, in which Mr. McKay stated that he had taken the position of withdrawing his impeachment at that time, and as Mr. McKay has stated, the matter as far as the impeachment was concerned, at that time, was closed.

PRESIDENT: Mr. Prosecutor, do you have anything further to state at the present time?

PROSECUTION: Yes, it is not the proper form of an impeachment of a witness; the proper predicate has not been laid; and also on the further grounds it was based on repetition; and on the further amplification of that, that this is, in substance, an impeachment of their own witness.

MR. O'CONNOR: I certainly have objection to the prosecutor's statement that this is my own witness. I am certainly not bound by the statements that this witness makes at this time; this is cross-examination.

PROSECUTION: I will leave it to the court, if the court please, the witness has only testified that Schwammer and Keiling were keeping these documents. Now, I submit, that that was the only reference to Schwammer in the entire testimony of this witness. I submit that there has been nothing that would warrant the impeachment of this witness inasmuch as he has been called to the stand by the counsel for the defense, Mr. Hall.

MR. O'CONNOR: I think the prosecutor forgets that under this common design, that the accused Schwammer can be held accountable for all the rest of the accused, and I am not accountable for what he asks Keiling. I should like to add, further, that the question I propounded to the witness was not the same question propounded by Mr. McKay, who cross-examined this witness before. That question

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was: "Have you ever been convicted for any statements you have made since you were released from Flossenburg?" I asked the witness if he had ever been convicted of any crimes, not statements

DEFENSE: All I have to say is this: This is one of these instances that shows the confusion attendant upon having to handle the defense of this case, where we have varied interests. When the matter came up originally, it could not have been pushed through because of the necessity of protecting the correct handling of Mr. McKay's group of former prisoners. And that is why we have had to hold it over, this thing, until that very distinct phase of the case has been practically completed.

PRESIDENT: The court will excuse the present interpreter for the time being. Mr. Velte.

(Whereupon the interpreter, Mr. Ackerman, was excused by the court, and the interpreter, Mr. Velte, became the official interpreter.)

PROSECUTION: May it please the court, I would like to state that it has not been shown it was a crime involving moral turpitude and therefore it is not laying a proper predicament for impeachment.

PRESIDENT: The obj ction of the prosecutor is overruled.

MR. O'CONNOR: Will the reporter repeat my question.

(Whereupon the ~~repeater~~ reporter read the question as follows:
"Have you been tried by an American military court on any charge?"

(Witness answering.)

A Yes.

Q What was the charge?

A I was accused in three different cases. One case was because it was presumed I had bribed someone. In the second case, because of a presumable false accusation of someone else. In the third case, I was accused of having made statements under false pretenses in

in order to come to a certain position. This charge was later dropped, in all three points, and I was acquited because of the proofs which were brought forth. And later on, after it was all over, a special agent of the CIC appeared at my place of work and I was accused of having kept secret a certain fact I had not given him, and because of this charge brought against me, I was sentenced to ninety days.

Q By whom?

A Through the small military court in Hersbruck and because of the objection which was brought against me, I was sent to Ansbach because of this. But I was suddenly released a few days earlier without having known anything about it.

Q You say you were accused three times. You mean you were formerly accused by the American military government?

PROSECUTION: May it please the court, this is going much further than the latitude which is allowed for impeachment purposes. He has only the right to show this man was accused of a crime which involved moral turpitude. It is not proper to show a man was tried. The only thing which he can be asked is: "Have you been convicted of a crime which involves moral turpitude?" The conviction is the only thing which is admissible and I object to it on the ground that it is not the proper way to impeach a witness.

MR. O'CONNOR: He used the word "accused" three times and I do not know whether he meant he was accused by the government, or what he meant by that.

PROSECUTION: It is absolutely immaterial and irrelevant to the issues of this case and for impeachment purposes.

PRESIDENT: The objection of the prosecution is overruled.

(Witness answering.)

A No; that was one charge with three specifications.

Q Brought against you by the American military government?

A Yes.

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PRESIDENT: The objection of the prosecution is overruled.

(Witness answering.)

A No; that was one charge with three specifications.

Q Brought against you by the American military government?

A Yes.

Q What was the date of that trial?

A I can't tell you the exact date on the moment.

Q Can you give me the month or the year?

A It was the end of October or beginning of November last year.

MR. O'CONNOR: That is all.

QUESTIONS BY MR. HALL:

Q What is this security service about which you have spoken?

A What security service?

MR. HALL: If the court please, from the way "security service" has been appearing in the translation, I am not certain it has been properly translated.

Q Did you answer any questions with the word, "security service" in your answer?

A No; I only made a remark about the CIC.

Q Mr. Kuefner, you spoke of records that Keiling kept. In connection with what work were those records kept?

A We, ourselves, didn't have these books. We had nothing to do with them. The headquarters kept the books. I can't say that because I had nothing to do with them.

Q What were these books you examined in connection with Keiling?

A They were, with these books, the records of roll call of the leader of the security service.

Q What do you mean now by "security service"?

A These gentlemen who examined the chain of sentries and checked them over wore an armband with the letters "SF", which stood for the leader of the security service.

Q What were the duties of those who wore this armband with "SF" on it?

A As far as is known to me, their duties consisted of checking the guards. And they had to write down in red everything that happened during the time they were on duty. I don't know to whom the

leader of the security service at the time was responsible, whether to the chief of the company or to someone in the command post; at any rate, I know he had to report to competent authority.

Q Where did these guards report for duty?

A They carried out their duties in the positions given to them by the leader of the security service. The way I was apart was that the top sergeant of the company would write out the numbers and the names of each guard and give him the position and assign him to his post.

Q From what company did these guards come?

A As far as I know, that very much varied.

Q Where, at the camp of Flossenburg did these guards perform their duty?

A During the day time, they would hold their watches in the guard towers. And at night they would also have guard duty at the guard towers. When there was fog, they would put intermediate guards in between the towers. And during the day time, they would designate special guards to accompany the guard detail; but as far as I know, the leader of the security service, did not have anything to do with that.

MR. HALL: Nothing further.

PRESIDENT: Any further re-direct?

MR. HALL: Nothing further.

PRESIDENT: Re-cross?

PROSECUTION: No further questions.

PRESIDENT: Questions by members of the court.

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Kuefner, you have testified as to the various reports of records relative to prisoners and SS personnel. The court would like to know just how you had access to those records.

A In this prisoners' museum, as well as having books and lists

there, there were documents from the chief of the company there, at that time it was capo Buddensieg. And a top sergeant of the commando fuehrer came to this museum and would check over these books and documents, whichever it would be at the time. When this top sergeant came for the first time, I had no idea that these documents were there at all. And it wasn't until later on that I found out these documents were from the headquarters and from the company. And after that, I took advantage of the opportunity in view of the fact I had the key to this museum in my pocket, and out of these documents I drew up facts for myself and checked over everything that interested me. I am talking now about the museum when it was still located in the barracks of the SS warehouse at that time. Later on, when the Department 6, moved to Headquarters building, the museum was transferred into the cellar, and the main post itself was in the second story.

Q What the court wants to find out is whether you had any authority to go into these records?

A Not officially, unless I had a special order to do it.

Q Just what were your duties in the camp?

A I was there as a clerk. I would distribute newspapers and mail.

Q But you really had no duties in conjunction with these records, is that correct?

A Not officially, no.

Q Now the court understands you went over those records sometime in 1943 up until the time of the evacuation, is that correct?

A Before the evacuation because in 1944 I wasn't with the department then any longer, and I was taken away from all these documents in the main building which had to do with the individual positions.

Q Then your inspection of the records included just exactly what period?

A You mean in general or the particular times when I looked at documents?

Q The time as indicated by the record.

A The period of time when I looked at these documents began in the beginning of the year 1943 and went on until the beginning of the year 1944. I would look at them almost every day when I had time, when I thought no one was watching me.

Q As a result of this inventory of the records, did you find anything out and report that at any time?

A I never saw anything in this book. I usually saw Keiling's name mentioned in connection with ordering musical instruments. In the acquisition of musical instruments. And also his name in connection with receiving books for the SS command post, for department 6.

PRESIDENT: Any further questions by members of the court.

QUESTIONS BY THE LAW MEMBER:

Q Were you an official photographer of some kind in the camp?

A I myself wasn't an official photographer, but the next room was the official SS photographer's laboratory and there was another prisoner in there.

Q It has been testified that you were an SS photographer for the camp, is that correct or not?

A I was never any photographer of any kind.

Q Did you make pictures in the camp?

A Not me, -- never.

Q It has also been testified that you made secret reports for and on behalf of the SS in the camp, is that correct?

A No, I never did anything like that for the SS. The person who mentioned that is lying; that is a figment of his imagination. On the contrary, I did just the opposite.

Q Did you make reports?

A Yes, I made reports, but with this meaning ....

Q For whom and to whom?

A I made reports which consisted of drawing up lists of names from

department 6, and they consisted of lists which I found, -- sometimes I had other comrades with me when I found them. Unfortunately, the lists at that time in department 6 have been destroyed, but I can give you two names.

Q To whom did you make these reports?

A I didn't make these reports to anyone. They were a collection which I gathered with other comrades?

Q What did you do with these reports?

A We kept these records, these lists, in my custody, and according to the testimony of one comrade, one of these lists is still in custody and has not been recovered.

Q Did you know that it was common knowledge that you were considered an SS spy in the camp?

PROSECUTION: I object on the grounds this is immaterial, irrelevant and incompetent to the issues in this case. This man is not on trial. And the matters that are sought to be elicited at this time have nothing to do with his credibility at this time.

PRESIDENT: This particular witness has appeared before this court first as a prosecution witness, two different times, and now as a defense witness. The matter of the credibility of this particular witness is of very serious nature due to the testimony he has presented to the court on various occasions. The objection of the prosecutor is overruled.

LAW MEMBER: Will the reporter read the question.

(Whereupon the reporter read the question.)

(Witness answering.)

A That knowledge came only from among the accused here, because since that time there have been hundreds of witnesses here and you can ask any of them about me. I myself do not feel guilty.

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QUESTIONS BY THE PRESIDENT:

Q Did you ever perform any duties whatever while you were in Flossenburg for the protective custody department?

A I never had any official mission of any kind from anybody, but I belonged to a small group of people and Schrade also belonged.

Q Did you have any official duties in conjunction with protective custody?

A I had nothing at all to do with the protective custody camp itself.

Q Were you called upon to make any reports of any kind by the protective custody department?

A No.

PRESIDENT: Any further questions of members of the court?

QUESTIONS BY COLONEL JACKSON:

COLONEL JACKSON: Will the reporter repeat the last question asked by the Law Member?

(Thereupon the reporter read the question as follows:)

"Did you know that it was common knowledge that you were considered an SS spy in the camp?"

Q Referring to the question which has just been read, Kuefner, you have not answered this question and have been very evasive about it. Did you know it was common knowledge?

A That is something new to me.

Q Did you work with the SS?

A Never with the SS.

Q Who was in the office with you, Kuefner, where you worked?

A There were two working in the last place of work where we concluded, one was named Rudolph Kosina, -- he owned a movie house in Prague, and there was Gottlieb Ketzinger.

Q They were both inmates, were they not?

A Prisoners.

Q Nobody else worked in the office?

A And two more Germans. One of them was George Kolser and the other was Karl Stefflinger.

Q Were they both inmates?

A Yes.

Q And nobody else was in the office?

A In this office, no.

Q Those were the only people in that office?

A Yes.

QUESTIONS BY THE PRESIDENT:

Q When did you first come to Flossenburg?

A I arrived there the 6th day of the 7th month in 1942. I was officially entered on the 7th day of July 1942.

Q What kind of triangle did you wear?

A Green triangle.

Q How did you get to Flossenburg?

A First of all, I was in arrest in Esterweger, Vappenburg, and in May 1942, I was given a railroad ticket and ended up in Munich, because I was to be released there. With my railroad ticket, I got two marks and 80 phennigs, and after I arrived in Munich, I went up to my aunt's house to pick up some money. She lives in Fosten Marktschwaben. After a sojourn there of a few days, I returned to Munich in order to go home. When I got to Munich and wanted to get on the train, I found the train would not leave until evening, and so I went to get some food in a restaurant, Mannshof.

Q Don't go into that much detail.

A Well, the court asked me ....

Q What the court wants to know is, what definitely were the orders that sent you there, why you were sent.

A I was arrested as I came out of this restaurant in Munich. I stayed with the Gestapo two or three days, then I was sent to the

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Q Don't go into that much detail.

A Well, the court asked me ....

Q What the court wants to know is, what definitely were the orders that sent you there, why you were sent.

A I was arrested as I came out of this restaurant in Munich. I stayed with the Gestapo two or three days, then I was sent to the

criminal headquarters, and then according to the instructions, I was supposed to be sent to Dachau and I was unloaded here. We were about 600 prisoners at that time but they only took 150 prisoners in Dachau.

Q What were the charges against you?

A In this case, there weren't any charges because I wasn't brought to court. I was supposed to sign something, but refused to sign it. After that, I arrived in the camp.

Q Didn't the Gestapo have any charges against you?

A No. For two nights the Gestapo really worked me over, then the third day they brought me to the criminal headquarters.

Q Can you explain to the court why you were given a green triangle at Flossenburg?

A As a rule, whenever anyone was delivered in the camp they would immediately ask who had delivered them there and why; and when the criminal police delivered a man, they usually got a green triangle, and when the Gestapo delivered him, he would get a red triangle, even if he had been a professional criminal before.

Q Did I understand you to say Kuefner, that you had never been convicted by a military government court?

A I already explained that I was convicted to 90 days forced labor; and later on I got out of this a few days earlier before the sentence was fulfilled. The charge against me in this particular case was that I kept quiet about my previous sentences to a special CIC agent.

Q That is the only charge against you for which you received this sentence?

A Yes, and if the court would like, I can explain why this charge was made.

Q Now this matter of perjury has come here before this court in evidence and the court desires at this time to ask you definitely whether you were ever convicted of perjury before a military government court.

A I was accused because of a false representation and not because of perjury, never because of perjury.

Q What do you mean by false representation?

A I already explained and to go into that I would have to talk about the first charge brought against me.

Q Explain to the court in just a few words what you mean by false representation.

A In the beginning of May, I was with the CIC in Nurnberg and I was constantly transferred from one post to the other, and the 2nd of May, the special agent, Professor Rendel made a report to the CIC, and after this report went in, he asked me whether I would work for the CIC, and I said, "yes" to that. After a few weeks, various departments were set up outside of Nurnberg. Among those was Hersbruck, and in Hersbruck, the personnel, the special agents, these were changing also. And at that time, among their people, this special agent with the name Kurs, arrived. I made application whether I could have the possession of my car approved and I had to give reasons for it correspondingly. And on this questionnaire given to me, one of the questions was: "Where were you during the last three years?" And this was designated for the motorpool. And this document came to the ears of this special agent and he based his statement on this document, and in this document, I never said anything about the fact I had received a previous conviction. That was the reason I received these 90 days forced labor as punishment.

QUESTIONS BY THE LAW MEMBER:

Q In other words, it was falsification of fragebogen?

A It wasn't actually a questionnaire; it was a personal explanation of my own and it wasn't for the command post. I wrote it for the motorpool and I left a copy of this and Mr. Kurs read one copy of it which I made.

(Kuefner-Court)

Q Was this statement sworn to?

A That is more than I know.

Q Do you know whether or not you swore to this application for which you were tried?

A I was never asked about that. It wasn't until the trial when the first three specifications of the charge came out that the prosecutor added this fourth point and wove it into his charge against me.

Q Then do I understand when you say you didn't serve all your sentence that the reviewing authority reversed the sentence or cut the sentence down?

A I don't know who was responsible for that or who interceded, but suddenly I was called and it was said I would be released.

Q How much time had you served at that time?

A I believe around 20 days.

Q What court was that?

A It was a minor military court in Dachau.

Q A summary court?

A The small court, summary court, yes.

Q What was the date, as near as you can recall?

A Not in the moment; but I believe that the first time when it occurred it was in the last part of October, and then this case was adjourned for one week because of the fact that this special agent from Nurnberg, this Professor Kendel and also another special agent from Freising were summoned into court on my behalf.

PRESIDENT: The court will be recessed for half an hour.

(Thereupon the court recessed at 1500 hours.)

Camp Dachau, Germany
21 October 1946

AFTERNOON SESSION

(hereupon the court reconvened at 1545 hours.)

PRESIDENT: The court will come to order.

MR. BURKOWITZ: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Denson who is absent on business of the prosecution; all the personnel of the defense are present; and all the accused are present, with the exception of Buddensieg, Oswald, Jakubith, Olschewski, Lipinski and Hatzke, who are sick in hospital. The interests of the named accused are being taken care of by counsel. The interpreter and the reporter are also present.

The witness is reminded he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

ADOLF KUEFNER, formerly a witness for the prosecution, and having been called as a witness by the defense, being reminded that he was still under oath, testified further through an interpreter as follows:

EXAMINATION BY THE COURT CONTINUED

QUESTIONS BY THE PRESIDENT:

Q Kuefner, you have testified to the effect that the reason you were given a green triangle when you came to Flossenburg was due to the activities of the Gestapo, as far as your case is concerned.

A That was apparently misunderstood. I received a green triangle because the criminal police of Munich delivered me in Dachau.

Q Was that the only reason you were given a green triangle?

A Yes; if it had been the other way only, I would have got a red triangle.

Q Just what were the charges of the criminal police against you?

A There wasn't any accusation at all against me. I was supposed to sign something. I don't even know what it was.

Q Can you tell the court whether or not the criminal police had any evidence of criminal offenses against you?

A I believe that my previous conviction was the reason why I was sent to the camp in the first place.

Q You mentioned during the course of your testimony that you had failed to include the mention of a previous conviction on your fragebogen and that this omission on your part resulted in your difficulties with the military government.

A I already explained that the three particulars of the charge at that time were declared null and void and I was acquited of them, and that at the end of the proceedings they changed the charge against, -- the prosecution changed the charge against me to read that I knowingly and consciously refused to tell this special agent of the CIC about my previous conviction, and that resulted in 90 days.

Q Just what was the nature of this previous conviction that you had concealed?

A That was various offenses, many of which were a traffic violation and once because of begging and once because of a promise I had made to my earlier fiancee and on the basis of this assumption law, I came to Bad Tolz and was placed there before a special court and there I was convicted to 15 years in the penitentiary, and that was declared null and void and sent to the chief legal court in Munich No. 2, and in two other proceedings I was convicted in the last to three years and those three years were changed but I was to be sent to a punishment camp. After that, I came to Enter Wegen, camp 7. Meanwhile, I had already changed my camp once.

Q Now, going back to this previous conviction that it was alleged you concealed, were those various things all included as

specifications under the one charge. The court is referring to the case where you got 15 years. Were those three different matters all included in the specifications under the one charge?

A I was convicted on the basis of this assumption law because I was supposed to have bribed somebody in order to receive personal financial advantages for myself.

Q Now you have mentioned about two additional convictions, what were the charges?

A I received fines in regard to these cases. The one involved false or wrong parking and traffic violations. And in German courts when you receive a fine which earlier was a police conviction you draw the court's attention to it and the punishment is raised, then that is registered in a book.

Q You testified you were charged and convicted for three years on one count, just what was the count against you for this?

A That was the first case in front of the court at Bad Tolz. That was declared null and void and the case was referred to the county court in Munich in order to start a new proceeding. It was the same one for which I received 15 years.

Q You mentioned also about another conviction, just what were the charges in that particular case?

A That was because of begging. In regard to my professional activities, I wanted to know various workshops in upper Bavaria, and then the policeman asked me to show my papers. When I was underway to ask him how I got my money , he said, "How can you explain that when you are moving around like that. The only way you can earn your living is to beg for it". And for that reason, I got one week punishment.

Q When you made out this fragebogen were you required to li t all previous convictions?

A That wasn't any fragebogen, that wasn't any questionnaire. That

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was a personal explanation I made for the motorpool. Everything was correct in the fragebogen. The explanation I made to the motorpool had as one of its questions where I had been for the last three years.

QUESTIONS BY THE LAW MEMBER:

Q You stated that one of the questions which was asked was where you had been for the last three years. Did you falsify that answer in the questionnaire?

A That answer was right.

Q Why did you particularly mention that question?

A That wasn't actually any question. That was a general description of my own for this motorpool.

Q I just couldn't quite get the connection why you mentioned that particular question.

A Because the leader of the motorpool and also in the newspapers, it was insisted that it was necessary to mention where you had been in the last three years.

Q Going back to Flossenburg, was there a lieutenant there that worked in the security police?

A It all depends on what you mean by security police?

Q Was there an SS lieutenant there by the name of Seemans?

A I don't know him.

Q Was there an SS lieutenant in this protective custody department at Flossenburg?

A I don't know of any SS lieutenant but I know of an SS captain in the protective custody department.

Q What was his name?

A Karl Fritzsch.

Q Was there an officer by the name of Seemans or some such name?

A This name is entirely strange to me.

Q Did you take any photographs or pictures for the SS officers at

Flossenburg?

A I never made any pictures at all.

Q Did you have a camera at Flossenburg?

A No.

Q Did you have any contacts or dealings with the protective custody department while you were in Flossenburg?

A No; never.

QUESTIONS BY THE PRESIDENT:

Q You mentioned three previous convictions, were there any others?

A Yes; in regard to fines. I don't know exactly how many others, but I believe that two were recorded. However, I believe that all in all, the fines amounted to 25 or 30. But all these fines were paid by either me or my mother directly and as far as I know those fines were not recorded.

QUESTIONS BY COLONEL JACKSON:

Q All these fines, what were they, -- what were the offenses?

A I cannot remember all the details. I know of one case which I remember; I got myself a head injury out of that, and then I was found guilty of it. And because I was lying in the hospital, they conducted the trial in absentia and my relatives picked a counsel for me and he saw to it that the decision was reversed.

Q I am not asking what happened. I am asking you what was the offense or what were the offenses?

A I don't remember the exact extent of these. I know that there was a fine and in addition to that a confinement.

Q Are you subject to loss of memory?

A No, not at all.

Q Were there too many offenses, so that you don't remember what the offense was?

A At that time I was in the hospital. My attorney conducted the case for me and I didn't have to pay any fine after all and I didn't have to be arrested at all; and on the contrary, through the efforts of my attorney and my application, I got reimbursement for the damages sustained.

Q What is the court to understand by your statement that there were 25 or 30 fines?

A Many times it involved just a small fine of from 10 to 15 marks. Later, it wasn't until later on that my mother told me about the fact she had paid the fine in many of these cases.

Q What was the offense for which she paid the fine?

A It always involved misdemeanors in regard to police rules. Once I didn't have my rear light burning, another time I drove too fast or I didn't park according to regulations, and without you knowing anything about it, a fine of that sort would arrive in the house and you would have to pay it.

Q And this happened 25 or 30 times, is that right?

A It could have been some less or some more, I can't tell you exactly.

Q You stated to the court that if the Gestapo took a man to the camp, he was given a red triangle, did you not?

A Yes.

Q And you also stated regardless of his previous convictions, is that correct?

A This is the way it was: If the Gestapo delivered a prisoner, he would get the red triangle, even if he had ten convictions; but if he had a previous conviction and he was delivered in the hands of the criminal police, then he would get a green triangle.

Q Can you give the names of some of these habitual criminals who got a red triangle?

A Yes, I can do that. Mehringer is a name. He is now here in arrest. He was in Flossenburg and also in Hersbruck. As far as I know he had a red triangle. I know that for sure. I know that he had 30 or 31 or 32 previous convictions, criminal convictions, because of swindle, false impersonation and because he was a pimp.

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Q Did you ever work for a 1st lieutenant in Flossenburg?

A I was once employed by a second lieutenant in the SS. His name was Rink. His first name is Otto.

Q Did he take pictures?

A I don't know that; that could be true.

Q What were your duties for him?

A I had to hand out the books; I had to distribute the newspapers and later on the radio department which earlier had been in the electrical work shop, came into our department. Then another duty consisted of keeping the theatre clean, -- my activities consisting of these fields.

Q Getting back to the motorpool. You stated that you falsified your statement for the motorpool, is that correct?

A The way I look at it is that I didn't falsify it. Because what I said corresponded to the question which had appeared in the newspapers.

Q I believe you told the court before that it wasn't a CP or higher authority, but that you did make this misstatement to the motorpool?

A Yes; the statement went to the motorpool, and the motorpool didn't raise any objection to it. The objection came from a special agent who had received a copy of it from a comrade.

Q Why were you convicted?

A I was convicted because a copy of this document was found in the possession of a special agent, a comrade of this Kurs who had remarkedly shoved off to America. That document had been designated as information for him and afterwards, that was why afterwards, the charge was changed, after the proceedings were over, to read that the one special agent believed that he had been misled and not the command post.

(Knefner-Court)

Q Had this report, this questionnaire gone to a CP, would it have been true?

A Yes, in every regard, as far as the materiality was concerned.

QUESTIONS BY THE PRESIDENT:

Q Now, Kuefner, you testified you had three previous criminal convictions. Were there any others, outside of these 25 fines you have mentioned which you have said were for misdemeanors?

A Yes; I had one more. I had some trouble with the motorcycle. I received 30 days for that but I did not have to serve it out because I received immunity for that and as far as I know that took place in the year of 1933.

Q Were there any other previous convictions?

A No.

Q You mentioned something about receiving immunity in one case and that the conviction was declared null and void in several other cases. What the court wants to know is whether you have any documentary evidence to put before the court to that effect.

A I have something written down in documentary form in regard to these 90 days, and I have the original of the document by my defense counsel at that time when the charge was first brought against me. I believe that my defense counsel also has a copy of this and also a copy of the verdict. I have the address of my attorney and the court can communicate with him directly and receive this.

Q What the court wants to know in regard to these documents is, have you any of that evidence in your possession at the present time?

A Not at the present time, no.

Q What is your status in Dachau at the present time? Are you simply being held as a witness here or are you performing any additional duties here?

A I am working in a printing firm with a former comrade from

Flossenburg, -- publishing house. I am here in Dachau because the defense told me I would be called here to testify in behalf of Keiling.

Q You have not been performing any duties in Dachau outside of that of a witness, is that correct?

A Not any official duties, but I was actually in the office next to the defense office in regard to questions concerning missing comrades.

Q Just who were you working under in that position?

A The questions would arise in Mr. Pinter's office and when they arose I would be asked whether I know anything about them and then Mr. Pinter would check these answers whether they were correct or not and take over from there accordingly.

Q Have you had access to any of the Flossenburg files during the time you performed those particular duties?

A No; I do not have any.

Q Have you had an opportunity to check over any of these documents in connection with the Flossenburg trials during the time you were acting in that capacity?

A No; as far as I know, there never were any Flossenburg records there in the office and if there were, I don't know if they were the records; at any rate, Mr. Berkowitz had them.

Q What do you mean by missing persons?

A In cases where their relatives do not know whether the persons in question are located or do not know whether they are still alive or not.

Q You mentioned during the course of your testimony about some organization you belonged to in the camp with Karl Schrade. What was the nature of that organization?

A The main object of this group was to sabotage the intentions of the SS against the prisoners, and correspondingly to take counter-preventative measures against them.

(Kuefner-Court)

Q Against who?

A The prisoners would prepare steps against the preparations of the SS.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court recessed in place from 1640 hours until 1645 hours.)

PRESIDENT: The court will come to order.

EXAMINATION BY THE COURT CONTINUED

QUESTIONS BY THE PRESIDENT (continued)

Q Now, Kuefner, there has been certain evidence which has come before this court to the effect that you were an informer at Flossenburg, do you wish to make any statement to the court in regard to the evidence which has been brought before this court?

A This reproach is entirely new to me. To prove the contrary I can mention definite incidents.

Q It is not necessary for you to mention any incidents. The court wants an answer. Were you an informer or not at Flossenburg?

A No.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q Were you ever employed by the Gestapo?

A No.

PRESIDENT: The court would like to know, Mr. Berkowitz, whether this particular witness has any capacity with the prosecution.

MR. BERKOWITZ: Mr. Pinter might be able to better answer that because he has been in the office and will be able to give a clarification of what the witness has been doing.

MR. PINTER: Principally, as the witness has stated, he has been answering questions concerning the letters which came in concerning whether certain people who were in Flossenburg,

where they lived or what happened to them. These questions arrive all the time and have to be answered and I answer them as a rule, and Kuefner, by reason of his being in Flossenburg for so many years, has helped in that respect to answer those letters.

PRESIDENT: Is that the extent of his activities, as far as the prosecution is concerned?

MR. PINTER: Just about, with the exception that he also answers questions concerning certain people who were in Flossenburg. He may be asked whether or not he knew them at Flossenburg, what their connections were and their positions. That is the extent of the services he has rendered while he was waiting to be called as a witness for the defense.

PRESIDENT: Has the witness Kuefner had access to the Flossenburg file during the time he acted in that capacity which you mentioned?

MR. PINTER: Only to copies of the records of the deaths in Flossenburg and transfers. The copies of those records.

PRESIDENT: As Kuefner is being carried as a defense witness at the present time, the court directs that he does not have any access to the Flossenburg trial records.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COLONEL CRAIGHEAD:

Q Did your activities in this organization with Karl Schrade extend throughout your time in Flossenburg?

A Almost the whole time starting in 1943. Together with Schrade, there were other people in the organization also.

Q What was your reason for checking those death records in the security office?

A I don't understand the question.

MR. HALL: Does the court mean the records which the witness testified about?

LT. COLONEL SKIELVIG: The security service, to which he previously testified.

MR. HALL: Does the court mean to classify them as the death records of Flossenburg?

LT. COLONEL SKIELVIG: Not necessarily.

Q I am referring to those records to which you previously testified, which you mentioned as being in the museum.

A Whether they are right, or what do you mean?

Q Were you trying to accumulate information for this organization, and is that the reason for examining these records?

A No; the main purpose of our group was to take any action to weaken any penal measures which were being undertaken against us prisoners.

Q Did you apply that aim to your duties as clerk under the detail 2004, under Schubert?

A I don't exactly understand.

Q You previously testified that you were a clerk in detail 2004 under Schubert, is that correct?

A Yes; that's right.

Q Now all the reports which came through there, did you ever try to stop those reports from getting into proper hands?

A No, I restricted myself entirely to cases which I remember started from the organization, because the extent of the reports is too great and it is too easy to run into the danger of confusing them.

Q Do you consider it as a possibility that you might have been confused when you testified against Schubert, to the fact that a certain Russian was put to death for having on his person a cigarette

lighter made from scrap metal?

A No, there cannot be any confusion there for the following reason: Because just before this Russian was hanged up, the record was read to him, was explained to him, why he was being hung to death. What was read to him consisted of the fact he was being hung because of sabotage and upon order of the national leader of the SS, he would receive 50 blows with a stick and he was hung.

Q You remember that much but you did not remember his name did you? You didn't give us his name?

A Of the Russian?

Q Yes.

A I cannot tell you the exact name of the Russian myself.

Q Kuefner, you testified against Mohr. When you testified against him you stated he forced a particular man to take a beating but also you could not give the name of that man, the victim. This was a certain Pole whom you alleged was beaten along with you for some reason.

A Yes, I know that, but to give names here, that is dangerous and it is too easy to be confused. And that is the reason why I only mention a name when I know with certainty it is a right one.

Q Can you be confused about its being a Pole, and could not you be confused about its being Mohr having caused the alleged act?

A I know there was a Pole because of the initial. When it was a Pole or a Russian they always had a letter on their prisoner number, a "P" for Pole and an "R" for Russian. It was only the Germans who did not have any letter to the left part on top of their number.

Q Can you remember why you were given that beating at that time?

A I remember like this: At that time I had had trench work, for a water construction. They were going to lay pipes in the earth. In the one division of the work the prisoners could work faster than in another section, perhaps because they did not have to get through

so much rock. I remember at that particular time I had large pieces of rock I had to work through. And besides that I was in very bad physical condition at the time.

Q Among other things you can remember, are you absolutely sure it was Skierka who passed that command on from Koegel to shoot prisoners on the evacuation march?

A The reason I can remember that is that we were sitting on the edge of a forest when Skierka told me about that and Skierka was in front. We had just got a break. He came by and made this remark as I have already mentioned. And then later on he came back a second time with a motorcycle and said anyone who stepped out of file would be shot to death. I would like to remark here that that is what I personally heard with my own ears.

Q You just heard that?

A I heard it personally from him, out of his own mouth.

Q You heard it personally?

A Yes.

Q Going back to this place where you work as a clerk. In that position, did that authorize you to have a key to the museum?

A Yes.

Q What did you have to do with the museum?

A When new documents or new pages arrived in the museum, I had to receive them and record them in writing because that all had to be listed. And if someone wanted anything in the museum, they would explain it to me and I would have to bring it to them.

Q How many people were in this organization with you and Karl Schrade?

A That changed a great deal because of the transports in the latter times but I can name a few of them for you. The Pole, Valeria, and the block eldest from Block 20 or 21, I am not sure which. I mean

only one of the big blocks to the right, I am not sure of the exact number of the block; and also among the group was Gottlieb Ketzinger, -- he is now with the Czech finance ministerie, and Rudolph Kosina was there. He lives in Prague and owns a movie house.

PRESIDENT: The court will be adjourned until 9:00 o'clock to-morrow morning.

(Thereupon the court adjourned at 1705 hours.)

CA/GI 13

First Duplicate Copy

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

5411 - 5490 Incl.

Case No. .....

[redacted] Military Court.
*General

Place DACHAU, GERMANY

Date 22 October 194 6

Prosecutor.....

Defence Counsel .....

Interpreter .....

Reporter.....

~~MEMBERS OF COURT~~
WITNESSES

ADOLF KUEFNER

HANS STESS

KARL KEILING

Accused FRIEDRICH BECKER, et al

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence { Imprisonment { Term.....
Beginning ..... 194.....
Fine { Amount.....
To be paid before ..... 194.....
or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

22 October 1946 0900 - 1700 hours Pages 5411 - 5490 Incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
KUEFNER, ADOLF			5413	5431	5411 5427 5431
STESS, HANS	5432	5442	5443		5443
KEILING, KARL	5446	5461	5476 5485 5486		5477

Camp Dachau, Germany
22 October, 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the members of the court are present; all the personnel of the prosecution are present with the exception of Mr. Denson who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jahnbith, Lipinski, Risbusch and Matzke who are sick in the hospital and whose interests are being taken care of by their counsel. The witness is reminded that he is still under oath.

If there are any spectators present in the court room who expect to be called as witnesses, will they please leave the court room.

ADOLF RUEFNER, called as witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

EXAMINATION BY THE COURT

QUESTIONS BY THE PRESIDENT:

Q Ruefner, when did you leave Flossenburg?

A On the 19th or 20th April 1945, the past year.

Q You left with one of the evacuation transports, did you not?

A Yes, towards the very end, I was the last one.

Q You were the last one. Who was in particular command of that transport?

(Ruefner - court)

A I don't know his name. He came from northern Germany. He was a former custom official. He had the rank of first lieutenant.

Q You don't remember his name?

A I did not arrive in camp until a few days after the transport was composed and he came there in the uniform of a custom official and the day before he left he was the first lieutenant.

Q What was the number of the transport division?

A There was no number. We were 30 to 40 men, former prisoners, who had come to the camp police and before we left the camp, the the adjutant, First Lieutenant Baumgartner, made clear to us to the effect that on the way we should capture all the prisoners who tried to escape and to bump them off.

Q What other officers were with the camp outside this First Lieutenant Baumgartner that you mention?

A There was another officer with the transport. We would be checked from time to time on our way. I saw this officer twice and it was an SS Second Lieutenant Skierka.

Q When Skierka was in that particular column you checked this column from time to time?

A Yes.

Q Did you have any non-commissioned officers with you?

A No professional non-commissioned officers were with us?

Q All right, any kind of non-commissioned officers?

A There was only one former prisoner who was appointed platoon leader. His name was Fladen and went the day before I left the transport. He himself escaped.

PRESIDENT: Any further questions by members of the court, apparently not, Re-direct?

MR. HALL: Nothing, sir.

(Kuefner - court)

PRESIDENT: Any further questions?

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q I want to remind you that you are still under oath.

A Yes.

Q You testified in response to a question by the court yesterday that you received a sentence of 15 years for bribery. Is that correct?

A It must have been a misunderstanding. I didn't get a sentence for bribery, but 15 years is correct, and that time I was accused of having had the intention to commit murder in order to get myself certain personal financial advantages.

Q Attempt to commit a murder that you were charged with was it not?

A Yes.

Q Give the court the rest of the particulars of that charge?

A I was engaged at that time and I caught my fiancee in doing something wrong and of course I immediately broke my relations.

Q Did you take out an insurance policy on her life?

A My former fiancee had some insurance policy on her life.

Q Who was the beneficiary of that policy?

A Nothing at all happened because it was purely an arbitrary act of the head of the chief of police headquarters in Munich.

PRESIDENT: Just a minute. Haefner, you have been very evasive in your answers. At the time when you were being questioned about that very matter yesterday, why didn't you give the facts of the case? I want to caution you that you took an oath.

MR. PIETER: May it please the court, I would like at this time to tell the court that the witness did testify to that

yesterday. There was a misunderstanding on the part of the interpreter.

PRESIDENT: Why didn't you object at that particular time?

MR. PINTER: I didn't have any interest in the matter at that particular time.

PRESIDENT: Mr. Pinter, as a matter of courtesy, if there is a question in your mind about the matter of the interpreter, you should have made a statement right there and then.

MR. PINTER: The answer was not as clear cut as it should have been but it was indicated to do away with a person.

PRESIDENT: Did you confer with your other prosecuting attorneys and attempt to have that matter cleared up without the court's cross examination?

MR. PINTER: I did not.

PRESIDENT: It is a part of your duty to do that.

MR. O'CONNOR: This witness did not testify to this. He said he was sentenced to 15 years for bribery because he had been accused of taking property for his own use.

PRESIDENT: Kaufner, the court wants to caution you again that you are under oath. You have sworn to tell the pure truth, to withhold nothing and to add nothing. I say that the court has noticed from time to time that you have been very evasive in your answers.

THE WITNESS: Yesterday, when I was asked this question I asked to be allowed to tell this story, but I was told I was not to, and that is where the misunderstanding comes from.

PRESIDENT: You were given plenty of opportunity yesterday. The court wants to caution you about this matter again. The court has also taken cognizance of the fact that while you were questioned yesterday you were very vague in various instances as to the individuals concerned.

QUESTIONS BY MR. O'CONNOR:

Q I want you to tell the court in detail about this murder charge.

PROSECUTION: May it please the court, I object to that question on the grounds that it is grossly improper. It has nothing in the world to do with the facts of this case. The law is perfectly clear that you only have the right to ask the man whether he was tried for certain offenses and convicted but has absolutely no right to go into details. It precludes the going into the circumstances surrounding the details of that offense. This man is not on trial for these former offenses. The proper way of impeaching the witness is to ask him whether he was convicted of a particular offense by a particular court at a particular time. If he denies it then the law is that you have the right to confront him with the record of that conviction. If you were permitted to go into the details of each of these offenses, in justice and in fairness to the witness, it would be the duty of the court to permit the production of witnesses on both sides to sustain or to deny the circumstances surrounding that particular offence about which he has been questioned concerning the details and that, of course, may it please the court, would entail the trial of each one of those separate offenses about which he has been questioned in detail. That is sufficient to show the court an adjudication one way or the other and it will not permit the inquiry into collateral matters. The line has to be drawn somewhere, may it please the court, and based on experience and wisdom of time the rule has been enunciated to the extent that you draw the line and ascertain whether or not he has been convicted and an inquiry into the details is not permitted.

(Kuefner - redirect)

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Page 5

PRESIDENT: The court is perfectly familiar with the law as quoted by the prosecution but, at the same time, this witness during the time that he was on the stand as prosecution witness has made grave charges against certain of the defendants and at the same time the credibility of this particular witness is gravely at stake.

MR. O'CONNOR: I agree with Mr. Denson. In the statement that this witness made yesterday in response to a question by a member of the court, he did not tell the court what it was for and I am asking now what it is. It was a voluntarily statement that he got 15 years for bribery and that he tried to obtain something for his own personal benefit. I am trying to find out what actually happened and whether it was an attempt to get insurance proceeds. Mr. Denson was not here yesterday afternoon when this witness testified to that effect.

PROSECUTION: May it please the court, with respect to the question of credibility, the witness' credibility may be in grave doubt but there are still rules which prescribe the limits that are permitted in our days one way or the other. The credibility of the witness and one of those limits, may it please the court, is just what is being sought to be done here. You still have no right to go beyond the limits that are prescribed by law. The mere fact that the witness' credibility is in doubt does not open the door to unauthorized questions. I would have no objection at all to the question that Mr. O'Connor asked the witness -- whether or not it was a bribery charge or a charge seeking to obtain money on an insurance policy. I recall his question to tell us about the murder charge and I object to his right to ask about the charge of bribery or whether

(Haefner - redirect)

it was a charge of murder. These are proper questions but to tell us about the murder charge is grossly improper.

MR. O'CONNOR: I withdraw the question.

QUESTIONS BY MR. O'CONNOR:

Q When you were sentenced to 15 years, with what crime were you charged with and convicted?

A As far as I still remember the verdict of the accusation which was handed to me at 7.30 in the evening was on the basis of about 30 paragraphs. I was accused before a Special Court of suspicion of attempt of murder and attempt of fraud of an insurance policy.

Q What were you accused with in connection with the fraud?

MR. DENSON: I object to that question on the grounds that that also is not in proper form.

MR. O'CONNOR: May it please the court, I do not know what the charge was yet?

PRESIDENT: The objection is overruled.

QUESTIONS BY MR. O'CONNOR:

Q In what city did that court sit?

A In Bad Toels on the occasion of several other commitments. The court itself was from Munich.

Q In what place were you when you were tried?

A In Bad Toels.

Q What is the name of the court?

A Special Court is the name.

Q Do you know the name of the Judge that presided at that court?

A No, I don't knowthat. It was about 7.30 in the evening that this sheet of paper was handdd to me and one hour later I

had to turn it in again and the following day the trial already started.

MR. EMSON: I move to strike that question.

PRESIDENT: The motion is sustained.

QUESTIONS BY MR. O'CONNOR:

Q Do you know the name of the Judge of that trial?

A I don't know any names.

Q What year was the trial held?

A 1939.

Q What month and day?

A I don't know exactly, I don't remember. That can be found in Bad Toelz.

Q You don't remember what month of the year you were tried?

A It was the beginning of June, August, September, something like that because I moved to Munich in the fall.

Q Is your memory bad or good?

A Yes, that is good.

Q Was that trial before a Jury or before a Court?

A That was before a Court as far as I can remember. There were six or seven Presidents. I don't know whether that was before a Jury or whether it was a Court consisting of Judges. They all were wearing a robe.

Q One more question of this matter. You were convicted were you not of attempted murder for the purpose of obtaining insurance money, is that correct?

A The charges were not sustained but the Court assumed it and on the basis of this assumption I was convicted.

Q They were sustained as far as the court were concerned, were they not?

(Kuefner - redirect)

A How far it was sustained I really don't know because at that time when the sentence was pronounced I was carried out of the court room and I don't know what was going on.

Q You were convicted, were you not?

A Yes, I was convicted in about 36 paragraphs and the sentence was made null and void and was referred to the County Court to Munich.

Q Did you go to the penitentiary after that conviction?

A No I came to Munich for the jail in the Corneliusstrasse.

Q How long did you stay in that jail?

A I was there for about six weeks and then I was again placed before the Supreme Court in Munich too.

Q Were you convicted there of anything?

A I was convicted in two trials and the first case I received sentence of three years and was sent to thepenitentiary subsequently, and when my Attorney made application this sentence of penitentiary was changed into labour camp and as I already stated yesterday I was then sent to Esterweg.

Q Was that the same charge that you were convicted upon the first time when you got the 15 years?

A Yes.

Q You served the penitentiary sentence.In camp Papenburg did you serve a sentence there?

A No, that is the same sentence which I was talking about just now.

Q How long were you there?

MR. DENSON: I object to that, may it please the court, being improper.

MR. O'CONNOR: I strike it.

(Haefner- redirect)

QUESTIONS BY MR. O'CONNOR:

Q I would like you to answer one question, yes or no. You were convicted on this charge, were you not?

A Yes.

Q You testified yesterday that you never took any pictures or worked in the photographic laboratory, is that right?

A Yes.

Q Did you ever work in the recognition service?

A No.

Q Where did you work in 1942?

A In 1942 at first with the detail earth levelling, then with the detail construction of water system, then with the detail of a railroad station, we were loading trucks, then in command of a detail, brick factory near Weiden, then in the outside detail Dremmerfuetter which is located in the Sudetan territory. Subsequently I came back to the stone loading detail.

Q That is enough. You didn't have anything to do with the recognition service that was attached to the photographic laboratory?

A Never.

Q You are sure of that?

A Yes, quite sure.

Q What was Department 6 in the camp?

A It was the SS library education department, and from there the newspapers would be distributed among the SS and towards the end of 1943 the radio department was transferred to department 6 from the electric shop and the SS theater also belonged to department 6 and the instruments for the musicians were distributed by department 6.

(Haefner - redirect)

Q That is the department that you worked in?

A Yes.

Q Did you tell the court that you never worked for the SS?

PRESIDENT: Just a minute.

MR. BERKOWITZ: This witness has testified that he was a prisoner. He was asked by the court if he worked with the SS, not for the SS. The question is improper since it is not based on a matter of record.

MR. O'CONNOR: I well remember the distinction that the witness said that he never worked with the SS, but the court asked whether he worked for the SS.

MR. BERKOWITZ: All these prisoners worked for the SS. That is what he came there for, and the question was put to the witness as misleading.

PRESIDENT: The objection is overruled.

QUESTIONS BY MR. O'CONNOR:

Q Did you tell the court yesterday that you never worked for the SS?

A As Mr. Berkowitz said just now, I told the court in response to the question whether I worked for or with the SS, but I didn't say that.

Q You mean you didn't work for, or you had been working with?

A I never worked with the SS directly because that was forbidden on principles.

Q Were you ever charged with blackmail?

A No.

(Kaufman - redirect)

Q Did you work for the C.I.C.?

A Yes.

Q Were you ever denounced to the C.I.C. by a farmer?

A That is not possible.

MR. HALL: I object to these questions -- were you charged with or were you charged for. The questions have gone far enough.

PRESIDENT: The objection is sustained. The court will take a short recess in place.

(Whereupon the court recessed and reconvened at 0959 hours.)

PRESIDENT: The court will come to order.

MR. O'CONNOR: I have no more questions to this witness but I don't know the proper method of obtaining a copy of the decision of the Hersbruck Court which convicted Kuefner and I think one should be obtained and presented to the court, and perhaps the court will know the proper method of obtaining it.

PRESIDENT: Mr. O'Connor, you should contact the chief of the War Crimes in Dachau and he would prepare a letter which the court would see was directed to the proper authorities. A more direct method would be to prepare a letter yourself and send it direct to the court which will bring the desired result. The court will take an half hour recess.

(Whereupon the court recessed at 1002 hours.)

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MORNING SESSION

(Whereupon the court reconvened at 1045 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If the court please, may the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Col. Denson who is absent on business of the prosecution; all the members of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Matzke and Lipinski who are sick in the hospital, and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

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PRESIDENT: Continuation of cross-examination.

CROSS EXAMINATION (continued)

QUESTIONS BY MR. O'CONNOR:

Q Mr. Kuefner, you testified that you heard Baumgartner give the order to bump off prisoners.

A Yes.

Q You also testified you heard Skierka pass on that order.

A Yes, but to a different person.

Q To whom did you hear him give that order first?

A The first time it was 1st Lt. Baumgartner in front of the building of headquarters where we had to fall in.

(Kuefner-Cross)

Q Was that before the evacuation started?

A Yes.

Q On what date?

A That was the last day, either the 19th or the 20th. I believe it was the 20th. That was the day we were to march off as the last ones.

Q Was that in the camp?

A Directly before the building of the headquarters in the direction of the camp.

Q Who was present when he gave that order?

A This gentleman who I also already mentioned before, this custom official, this 1st Lt. of the SS. I don't know his name anymore. Other than that, I don't remember anyone else who was present.

Q What were you doing there?

A We had to leave the camp right after that because we were to march away directly and we shoved off through the village of Neuenhammer.

Q Was that order given to you personally or given to a non-commissioned officer, or what?

A The order was personally given to all of us who had fallen in there.

Q Were you a guard on the march?

A Yes, I was a guard.

Q Were you carrying a gun?

A Yes.

Q Where did you hear Skierka give the order?

A The first time, in the forest in front of Neuenhammer where we had just made a break.

Q When was that?

A On the same day.

Q On the same day as what?

A On the 19th or the 20th. On the day we had just marched away from the camp.

Q You heard him give the order on the same day that Baumgartner had given it?

A Yes.

Q Where were you when Skierka gave that order?

A The first time I was on the left side of the street with several other comrades and Skierka came up with a light motorcycle on the right hand side and announced that order.

Q Was one of those comrades, Gautsch?

A No. Their names were Franz Fischer, a Frenchman, and an Alsatian whose name is Mueller who worked in the camp bookbinding division.

Q To whom did Skierka direct that order?

A To everybody who was making a break there or looking for quarters there.

Q What did he say?

A In the first instance when he arrived he said that we had to be on our toes because several had already escaped and if anyone was caught escaping he was to be bumped off. And five or ten minutes later when we were already under way marching toward Neuenhammer he came by again and said we should speed it up a little bit. We were already several kilometers distant from the other block, and he said that we should carry out our duties and if anyone tried to run away or escape we should do the same thing to him - bump him off.

Q Was Gautsch on the march with you?

A Yes, but I didn't see him myself on the march because I found out that he had already gone off with the first or second marching group. He had to take part in accompanying the prisoners and we didn't have any prisoners with us.

Q Did you ever talk over your testimony with Gautsch in this connection?

A No.

Q Is your memory any better about this transaction than it is about your own affairs?

A What are you referring to?

Q I mean, is your memory just as good about what happened on this evacuation march as about your own conviction?

MR. BERKOWITZ: The question is objected to as argumentative.

MR. O'CONNOR: If the court please, he has a pretty hazy recollection about his own affairs. I want to know whether his memory is just as hazy about this affair.

PRESIDENT: Objection sustained.

Q That is all.

PRESIDENT: Does the defense have any further redirect examination?

DEFENSE: No, sir.

PRESIDENT: Any further cross-examination on the part of the defense?

DEFENSE: No.

PRESIDENT: Recross.

MR. BERKOWITZ: No further cross-examination.

PRESIDENT: Any questions by membersof the court?

EXAMINATION BY COURT

QUESTIONS BY LAW MEMBER:

Q Kuefner, I understood you to say that you were first tried at Bad Tolz and there given three years. Is that correct?

A No.

Q Well, what was the punishment, the sentence at Bad Tolz?

A At Bad Tolz, 15 years.

Q I understood you to say that in the charges there were 30 paragraphs. Does that mean 30 specifications?

A There were at least 30 individual paragraphs. On the basis of these paragraphs I was accused.

Q Were you convicted of all 30 of those or only part of them?

A I don't know how that was in detail. That is more than I can tell you about, these individual points, but I know that the beginning remark of this statement read as follows: "It wasn't possible for the prosecution to prove anything else --"

Q I don't want too much detail. Continue to answer whether you were convicted of all of them or part of them.

A I don't know.

Q Were you tried in the Landsgericht or the Sondergericht?

A In Bad Tolz it was a special court.

Q In what court was it in Munich?

A Landsgericht, Munich 2.

Q You said you had some connection, I believe, with the SS, not directly but indirectly, at Flossenburg. Is that correct?

A I really didn't have any connection at all with them. I was merely working as a clerk.

Q A while ago in answer to someone's question, you said you didn't have any direct connection with the SS. What do you mean by that?

A I said that because I was asked whether I had worked with the SS or for the SS. I had to make an explanation about it and make clear the fact that we weren't allowed to speak to the SS at all or have any official relations with them.

Q You did not work in the photographic section or have anything to do with making photographs in Flossenburg?

A I wasn't in there at all and besides that, it was strictly forbidden for me to enter at all.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY THE PRESIDENT:

Q Just what orders did you hear Skierka give on the march?

A The first time it was when we were making a break. Skierka came up on his motorcycle from the direction of Neuenhammer and he said then, after he had stopped, we should rub out anybody who escaped or anybody who removed himself from the transport march at all. After about five minutes (it could also have been ten minutes), we had gone on several hundred meters,

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Skierka came back a ain with his motorcycle from the direction of Neuenhammer. He stopped again and said that we were quite some distance from the detail of the marching column and there were some people missing, people who had escaped, and things of that sort. We had to pay attention and anyone in that situation would have to be either knocked off or taken along with us. After that he rode back again in the direction of Flossenburg.

Q Just how do you know that was Skierka who made those statements?

A. Even before we had evacuated the camp it seemed strange to me he was in such a depressed mood and when he arrived with the motorcycle he wasn't carrying just a pistol but he had a machine gun along with him.

Q Did you have any difficulty with Skierka?

A Never, I only knew him before by sight and I didn't even know his name before.

QUESTIONS BY LAW MEMBER:

Q How often did you see him in the camp?

A Perhaps 20 times.

QUESTIONS BY PRESIDENT:

Q Will you explain to the court how you can recall the name of Skierka whereas your various other testimony you failed to identify a Russian and a Pole who were alleged to have been mistreated?

A I can remember the name of Skierka because that was a particular event and at that time that made a great impression on us and various comrades of us immediately mentioned Skierka's name and said he was the

one and after that you don't forget it so easily. As far as prisoners' names are concerned, on the contrary, it's very easy to be confused and mix the names up, especially in regard to Russian and Polish names where the phonetics are so difficult.

Q In your testimony against Hoffmann you previously testified that both yourself and a Pole were beaten badly.

A Yes.

Q When the court endeavored to find out who this Pole was who was so badly beaten and later carried away, you failed to identify the Pole by name. Now, the fact that you were badly beaten on that particular occasion remains in your mind, doesn't it?

A Yes, I remember that very well, not because it happened once but because it happened almost every day.

Q But at the same time you can't recall the name of that particular Pole?

A No, I only remember that at a later period of time he came into the hospital as a patient.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. O'CONNOR: If the court please, I would like to make a request at this time. The court has already directed that this witness have no access to the files of the Flossenburg case and I'd like to have that directive brought to state that this witness shall neither talk to any witness who shall appear in this case.

PRESIDENT: Mr. O'Connor, that is self evident, that this witness should not talk to any prospective witness. But to avoid any misunderstanding in this case, Kuefner, you are directed not to have any conversation whatsoever about the Flossenburg trial with any prospective witness for the defense.

A Yes.

PRESIDENT: And you are not permitted to talk to any defense witness after he leaves the stand during the continuation of the Flossenburg trial, without the permission of this court itself. You fully understand?

A. Yes.

PRESIDENT: Has the defense any further redirect examination?

DEFENSE: No.

PRESIDENT: Recross.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Just one more question in view of the question asked by the law member. When you appeared before the Landsgericht in Munich and received a three year sentence there, was that a reduction of the fifteen year sentence you had received at Bad Tolz?

A Yes.

No further questions.

EXAMINATION BY THE COURT (continued)

QUESTIONS BY THE LAW MEMBER:

Q What was the date of that hearing before the Landsgericht?

A As far as I remember it was in the fall of 1939.

PRESIDENT: Any further questions by members of the court? The court understands that the defense is finished with this witness?

DEFENSE: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused.)

MR. MC KAY: If it please the court, I have at this time, a witness, Hans Stass who was earlier requested through Wiesbaden because he had to be brought out of French territory and he arrived

only last Friday. Due to circumstances beyond my control I was unable to speak to him until yesterday. I would like to introduce this witness on behalf of the accused, No. 37; as being one of the witnesses this accused requested earlier.

PRESIDENT: The request of Mr. McKay is granted.

MR. MC KAY: Call Hans Stass.

HANS STASS, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. MC KAY:

Q Will you state your name for the court?

A Hans Stass.

Q How do you spell that?

A S - T - A - S - S.

Q Mr. Stass, where is your home at the present time?

A St. Wendel in the French zone, in the Saar territory.

Q Mr. Stass, were you ever a prisoner in the concentration camp at Flossenburg?

A Yes.

Q When did you arrive at Flossenburg as a prisoner?

A I believe it was in February, 1944.

Q How long did you remain as a prisoner in the Flossenburg camp?

A Up until the 23rd of April when I was liberated by the Americans in Cham.

Q Mr. Stass, during your stay in Flossenburg did you ever become acquainted with a man by the name of Retzlaff?

A I already learned to know Retzlaff earlier. In 1942 I had been transported to the concentration camp in Munchausen. I learned to know Retzlaff there in Block 21.

Q When did you again see Mr. Retzleff after your first acquaintance?

A I was sent with Retzleff to Auschwitz. I spent several weeks there with Retzleff. I became sick and turned over to the hospital in Auschwitz.

Q Now, Mr. Stass, during the time that you were a prisoner in Flossenburg in what block did you live?

A Block 6. We were living in quarantine. I can't give you the exact date. I was transferred with Retzleff in quarantine in Block 6 and there I learned to know him.

Q You stated that you knew Retzleff in Auschwitz and later you came in contact with him? Will you explain whether Retzleff came in the same transport with you?

A Yes, with me, with the same transport to Flossenburg.

Q What wing of Block 6 did you live in?

A The first period of my stay in Block 6 I stayed in WingA and Retzleff in Wing B.

Q Did that situation continue throughout the entire time you lived in Block 6?

A No. I was transferred from Block 6 to Block 3 because of this smuggling with regard to Schnapps.

Q In Block 6 did you continue to live in the same Wing of Block 6 all the time you lived in Block 6?

A No, for some period of time I was transferred to Wing B and then we got a new Block eldest. His name was Walter Saier and he transferred me to Wing B.

Q During the time you lived with Mr. Retzleff in Block 6 did you have an opportunity to see how he treated fellow prisoners?

A I can't testify anything bad about Retzleff. As far as I saw, Retzleff always behaved decently toward his comrades.

(Stass-Direct

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Q Will you describe for the court just what you saw Retzlaff do with regard to the treatment of fellow prisoners during the time that you lived with him in Block 6?

A Retzlaff's brother is a priest, he's in a monastery, and Retzlaff would get very nice packages from him and everytime the packages would arrive from his brother he would distribute most all of the packages to his fellow prisoners, and whenever we had a writing day and the Poles or Czechs or other foreigners couldn't write German, Retzlaff would see to it that these letters were sent off and he would write it himself. Besides that I can tell you about another case that took place in a stone quarry. I was a rivet carrier in a division in the civilian hall and one day, I can't give you the exact date, I saw a Russian lying on the road in the stone quarry. He couldn't go any further. There were a number of prisoners, foreigners and Germans who went by this prisoner and saw him lying there and didn't do anything about it. They didn't pay any attention. Retzlaff went over and carried this Russian in his own arms to the hospital.

Q Do you know what Retzlaff's general reputation was among the prisoners?

A Yes.

Q Will you describe for the court just what Retzlaff's reputation was among the prisoners, as you knew it?

A I can't tell you about the reputation of Retzlaff anymore. He was a good comrade.

Q When you say "a good comrade", just what do you mean?

(Staas-Direct)

A Anyone who was in trouble he would help them as a comrade. I never saw Retzlaff myself mistreat any prisoners. On the contrary, Retzlaff himself was very severely mistreated.

Q Did you ever hear anything in the camp with regard to Retzlaff's treatment of prisoners, among the other prisoners?

A I never heard any prisoners say that Retzlaff mistreated anybody.

Q You mentioned a little bit ago about a transfer to Block 3 as a result of an incident. What did you have in mind, Mr. Stass.

A Retzlaff came to me one morning and said, "Hans, I have Schnapps." I said, "Let's see it, Retzlaff." I put the bottle to my mouth and drank. I didn't drink it all but I took a good bit of it and I said to him, "Then, we can pass off this stuff against bread and other things we need," because we were all undernourished in the camp.

Q Was that all that happened with regard to that incident?

A No, Retzlaff gave me three bottles of Schnapps and I exchanged them for bread back in the hospital. I made a deal with the prisoner, he had only one leg, he went on crutches. He was the one I gave my Schnapps to and he gave me bread in exchange, and one Saturday evening I was going to the camp. They called out my name, Stass. There were four of us. Four names were mentioned, Stass, Winter, and Retzlaff and a Russian who was also with us. We should go to the clerk's office. When we got to the clerk's office all the block elders were there and I came into the clerk's office with this Mr. Winter. He was a small gypsy boy. I scarcely had gotten into the clerk's office before I was beaten down to the ground. I lay prostrate on the ground. I immediately lost consciousness and I was mistreated. I had a double skull fracture out of it and my ribs were kicked and then it was Winter's turn. When they had finished beating me on the ground they put me on the wooden horse. I still don't know who it was that beat me then. I don't know who had beaten me. Then it was Winter's turn and the same thing happened to him as happened to me and

And then Retslaff came in and right away he got the same deal we get. Retslaff also had a double skull fracture and several days after that I pressed the pus out of his skull myself. Then the Russian came in and this little shorty who was an Austrian. We were thoroughly mistreated then and we were led from block to block in this condition.

Q Do you know why this beating took place, Mr. Stass?

A This Schnapps is reponsible for this, the Schnapps which we made deals with, but there must have been something, some ethyl alcohol come into the camp. But if there had really been ethyl alcohol I could have gone to the dogs myself. I wouldn't be here today, because I myself drank 1½ liters of this stuff and if it had been bad I would have had serious results from it.

Q How did you get involved in this incident?

A Because I made black market dealings wit h the Schnapps and got articles in exchange for it.

Q What happened to you after this beating in the clerk's office?

MR. BERKOWITZ: If it please the court, I object to that as immaterial and irrelevant.

MR. MC KAY: I withdraw the question.

Q Mr. Stass, what happened to Retslaff after this beating occurred in the clerk's office?

A We were both of us locked up in the arrest building together.

Q How long did you and Retslaff remain in the arrest building?

A From Saturday evening until Monday morning. In the meantime the camp clerk, Hans Steitel, came to us in the arrest building. There were five of us lying there together in arrest, and he said to us, four of us there will never betray anything but I know this little one, Schokei, he will talk. "I know that you won't betray anything but I don't trust this

little Schokei" and he kicked him three or four times in the stomach. Then he went away and we lay in arrest until Monday morning.

Q Then what happened to you and Retslaff?

Q We were released from arrest. Not released, we came out of the arrest building and were sent to the clerk's office and the adjutant was there and he said to us, "I should really hang all of you" but he said, "You won't get away with impunity", and then we had to lie over the wooden horses. Then we had to put ourselves on the wooden horses and the camp eldest, Uhl, beat us and then we all got 100 blows with the stick on our rear, each one. And when I was lying on the wooden horse the adjutant would ask Uhl "how many has he got already" and Uhl would say "60 blows" and then the adjutant said, "take it easy now, he's had enough." After this beating then we had to go in back of the bath and make some big stones smaller and Capo came by and said, "You might as well hang yourself because you'll all be dead anyhow." And they went and got this little Schokei who was with us and they attempted to chase Schokei into the wires and Schokei was hanging in the wires. Some SS men came by, two of them were standing by in the courtyard and they forbade the Capo to do that, they forbade the block elders to do this, to chase them into the wires and then they let him go, this little Schokei crawled away and he was away until the evening roll call. And the next day in the morning I found out that Schokei was dead.

Q Mr. Stass, you stated that Retslaff had been mistreated on several occasions. Can you give the court any idea of how many times you know that Retslaff was mistreated in Flossenburg?

MR. BERKOWITZ: Objected to as incompetent and irrelevant.

PRESIDENT: Objection overruled.

A It wasn't only in Flossenburg that that happened but also in Camp Ubhane, the Ubhane factory near Auschwitz.

(Stass-Direct)

MR. BERKOWITZ: I ask that that be stricken from the record as incompetent and irrelevant.

PRESIDENT: What is it you are referring to, Mr. Berkowitz?

MR. BERKOWITZ: The treatment at another camp.

PRESIDENT: Can you state, Mr. Berkowitz, whether the indicated camp was part of the Flossenburg chain?

MR. BERKOWITZ: Ubhana is not a part of the Flossenburg chain.

PRESIDENT: The motion to strike is sustained.

Q Mr. Stass, this court is interested in regard to the treatment of Retslaff in Flossenburg and nowhere else.

A That is the only case that I can remember.

Q Did you observe Retslaff in Block 6 to see how he spent his spare time?

A During this period of time Retslaff was determine to learn the Russian language. Retslaff spent a lot of his time learning Russian. He had a comrade there whom he treated as a brother. He studied a great deal.

Q Mr. Stass, while you were a prisoner in Flossenburg, what colored triangle did you wear?

A A green triangle.

Q Will you explain to the court why it was that you were given a green triangle in Flossenburg.

A I was convicted of theft in St. Wendel or rather, Saarbrucken, in the Saar territory. I had often had previous convictions with regard to the smuggling in the Saar territory and twice because of theft.

Q Mr. Stass, just how many previous convictions had you had prior to the time you went to the concentration camp?

A I had six previous convictions.

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Q Mr. Staes, will you explain to the court what you observed with regard to Petzleff in the treatment of prisoners along a religious line?

A At Christmas time Theo and I decided we wanted to go together into the monastery.

Q Is that all?

A Yes. On Christmas day we prayed to crucifixes and did everything, and other comrades can testify to that.

Q Did you ever, during the time that you were with Petzleff, hear him express his future plans upon his release from the concentration camp?

MR. MAYBERRY: Objected to, first as leading and second, as immaterial.

PRESIDING: Objection is sustained.

Q During the time that Petzleff was in Flossenburg, will you explain to the court what, if anything, you ever heard him say with regard to his future plans?

MR. MAYBERRY: Same question, same objection, sir.

PRESIDING: Objection overruled.

Q Will you speak a little louder, Mr. Staes?

A He has a brother in the cloister near Degendorf in Neideraltaisch, in lower Bavaria, and his brother wrote to him very often and he wrote to his brother and his brother wrote him that he would be accepted in the Holy Order and I said to him, "Then, if you go there, I will go with you."

Q Were you with Petzleff during the months of January and February of the year 1945?

A I was with Petzleff in February 1945.

Q Did you ever hear anything during that time among the prisoners about Petzleff with regard to treatment of the prisoners?

(Staes-Direct)

A No, never.

Q Will you explain to the court how the foreign prisoners treated Retzlaff during the time he lived there?

A As far as I know the people who were in his work detail on the outside would have gone through fire for him.

Q What do you mean by that?

A Everybody liked Retzlaff, each one of them. All his men were foreigners and all his men liked him well. Most of the men in his detail were young Russians.

Q Do you know how many men Retzlaff actually had in his detail?

A I don't know.

Q Do you think that you could recognize Retzlaff if you saw him again?

A Yes.

Q Will you look over the men seated behind me and see if you can recognize the man, Retzlaff?

A He is sitting up there. (indicating)

MR. MC KAY: Let the record show the witness has identified the accused, No. 37, as Retzlaff.

Q You and Retzlaff were very good friends, is that correct?

A Yes.

Q You may cross-examine. Pardon me, Mr. Hall has a question.

QUESTIONS BY MR. HALL:

Q If the court please, I wish to ask a few questions in the nature of direct examination in connection with the SS, whom I represent. Mr. Stass, you spoke of a b eating in the presence of the adjutant. What was the name of that adjutant?

A Paul Baumgartner, yes.

Q For whom was he the adjutant. Who was the commandant at that time?

A I don't know the name of the commandant. We had only a big fat commandant at that time. I don't know the name of the commandant.

(Stass-Direct)

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Q What was the name of the man who said that you and others should hang?

A Baumgartner.

Q Who was present at the time you were beaten on this rack?

A Hans Steitel, this Uhl, this adjutant, Baumgartner, and there were various clerks there, I don't know their names.

Q How long did this beating last?

A Half an hour, three-quarters of an hour, until everybody was finished.

Q What part did Adjutant Baumgartner play in this deal?

A He sat like this (indicating) in his chair and he specified how many blows each man would receive.

Q What kind of a fellow was this Baumgartner?

MR. BERGWITZ: I have hesitated to object heretofore but this is immaterial to the issue; it's immaterial to the charges against these specific defendants.

PRESIDENT: Objection overruled.

A I can't give you a good description of this man because I wasn't in Flossenburg enough. Prisoners who were there longer than I certainly must know that.

Q Who were the SS men who would not allow this one prisoner to be chased into the wire?

A I can't give you their names anymore exactly.

Q That is all, sir.

QUESTIONS BY MR. MC KAY:

Q Mr. Stass, when did this beating in the clerk's office and then later, on Monday morning occur? What date?

INTERPRETER: That is two different dates?

MR. MC KAY: Yes, there were two beatings.

(Stass-Direct)

A I can't tell you about the exact dates anymore because during the first beating I got this double skull fracture and it impaired my memory and since then I have suffered some slight amnesia.

Q Can you give your best judgment as to what date that occurred?

A The beating in the clerk's office took place on a Saturday. I know that. I can't remember the exact date.

Q Can you give us any idea how long it was prior to the evacuation?

A That could have been three or four weeks but it also could have been one week more than that before the camp was evacuated.

PRESIDENT: Cross-examination.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q At which beating were all the block eldest present?

A There were many block eldest present. I believe that all the block eldest were there.

Q Do you remember who some of them were?

A I myself don't even know who it was that did the beatings because I was unconscious at the time. I didn't come to until I had been let out into the fresh air and we were led around among the various blocks.

Q Do you know what block eldest were there?

A On this evening all the block eldest were represented.

Q Now, in January, February, 1945, where did you work? January and February?

A I was working in Department 2004 as a rivet carrier.

Q Did you work with Retzleff in January and February, 1945?

A Not in January. Oh, yes, in January I was still working as a rivet carrier and after this incident with the Schnapps occurred, then we had to work in the camp as a punishment.

Q Did you work in Fetzlaff's detail?

A Yes, no. At that time Fetzlaff didn't have any commando anymore, any work detail, after this incident with the Schnapps.

Q Did you work in his detail in January?

A No.

Q Did you work in his detail in February?

A We didn't have any work detail, we only worked next to each other as punishment.

Q No further questions.

PRESIDENT: Redirect?

DEFENSE: Nothing further.

PRESIDENT: Any questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Did you know an unmate by the name of Goldberg in block 6?

A No, I don't know that name.

Q You never heard of a man named Goldberg?

A No.

Q Can you tell the court what became of Uhl, the camp eldest?

A I still don't have any idea about that today. All I know is that various former prisoners of the camp told me that at that time the prisoners themselves had killed him.

PRESIDENT: Any further questions by members of the court? Apparently not. Defense?

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Can you tell the court what happened with Baumgartner?

A I haven't heard anything up until the present time.

PRESIDENT: Has the defense anything further?

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DEFENSE: No.

PRESIDENT: Does the court understand the defense is finished with this witness?

DEFENSE: Yes.

PRESIDENT: The witness will be excused. Court will adjourn until 1:30 this afternoon.

(Whereupon the court, at 1200 hours, adjourned)

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22 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 13.0 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Col. Denson, who is absent on business of the prosecution; all the members of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Wetzke and Lipinski, who are sick in the hospital, and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

MR. BERKOWITZ: Will the court allow me just a moment?

PRESIDENT: Yes.

MR. BERKOWITZ: If it please the court, the prosecution asks to recall the last witness who was on the stand, for recross examination.

PRESIDENT: The request will be granted.

MR. BERKOWITZ: Call Hans Stass.

HANS STASS, called as a witness for the defense, resumed the stand, and being reminded that he was still under oath, testified further through an interpreter, as follows:

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q In your direct examination you stated you were under the jurisdiction

(Stass-recross)

of Flossenburg until about the 23rd of April 1945 at which time you were liberated, is that correct?

A Yes.

Q Was Retslaff with you on that column?

A No.

Q When did you leave Flossenburg?

A The 20th of April.

Q What year?

A 1945.

Q At what time of the day did you leave Flossenburg on the 20th of April 1945?

A Between 12 and 1.

Q Was your column liberated by the Americans at Cham?

A Yes.

Q During the time between your departure from Flossenburg and your liberation at Cham, what did you see?

A I saw that many people were murdered.

Q By whom?

A By the accompanying guards of the SS.

Q No further questions.

PRESIDENT: Redirect?

DEFENSE: No questions.

PRESIDENT: Any questions by members of the court? Apparently not. The court understands that the defense has no further questions as far as the witness is concerned?

DEFENSE: Nothing further.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused.)

(Stess-r cross)

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MR. HALL: The defense calls as its next witness, the accused, Keiling, Carl.

PRESIDENT: Keiling, the court understands that you desire to take the stand in your own behalf, is that correct?

KEILING: Yes

PRESIDENT: Proceed, Mr. Hall.

CARL KEILING, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A Carl Keiling.

Q Your nationality?

A German.

Q What is your age?

A I'll be 45 next month.

Q Are you married?

A Yes.

Q Do you have any children?

A Yes.

Q How many?

A Five children.

Q What are their ages?

A 25, 23, 21, 19 and 15.

Tell us briefly of your education, Mr. Keiling.

A Seven years grammar school and during that time I took instruction in music and three years extension course. In that period of time I also received instruction in music and I also learned the tapestry trade in that same period of time. After I finished my apprenticeship and took an examination which I passed very well, I was sent to Tilich and reported there

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volunterily to a military music school and stayed there 1½ years. After I came back to Bamburg, I took up my profession, music, again, was drafted in 1914 to the Fourth Reserve Regiment in August.

Q Keiling, what was your civilian occupation then?

A I was a music teacher in civilian life by profession. After I had my 15 years of military service behind me.

Q Now, did you participate in the 1st World War?

A Yes.

Q In what way did you participate?

A I took part in the battle in the Argonne Forest in France, 1914, and was seriously wounded there December 1914. In May 1915 I was transferred to the Fifth Battalion Regiment and I was sent into the field as a military musician in order to carry on my profession there. These field military musicians also had to carry stretchers in the field and in 1916, on the Somme River, I ended up in English captivity. I had been a stretcher carrier.

Q How long were you in English captivity after the 1st World War?

A Three years. I got out of captivity again in 1919.

Q Where were you wounded?

INTERPRETER: In what place?

MR. BERKOWITZ: Yes.

A In the Argonne Forest.

Q What happened to you after you were wounded?

A I was brought back to the First Aid Station, it was really the First Aid Station, I call it a hospital.

Q How long did you receive medical attention after you were wounded?

A I had medical treatment up until the middle of March and from there I came to a replacement battalion and from the replacement battalion I was sent to the Fifth Regiment and from there I went back to the front as a military musician.

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Q How long were you at the front?

A I stayed at the front until the 15th of September 1916 and then I was taken prisoner.

Q Well, then, after you were released as a prisoner of the British in 1919, what activity did you then follow?

A I came back to Bamburg again and was taken up by the Fifth Regiment as a musician. In 1920 this infantry regiment was dissolved because they wanted to reduce the army down to 100,000 men and I came to Kempden in the Argaue.

Q Continue.

A On the 17th of October 1927 I was released again from the service and I was retired then. I got a pension and returned to Bamburg.

Q You received a pension from whom?

A From the State army authorities, the Ministry of the State army authorities.

Q Continue.

A In 1928 I spent some time playing in the theaters in Bamburg, 1929. At that time we didn't have any sound film, and later on I was called in to the Bamburg musical school as a teacher of music.

Q How long were you in this school as a music teacher?

A Until 1939 when the war started.

Q When did you start in that school?

A 1929.

Q Who was the leader of that school?

A His name is Harms. He had formerly been my music teacher. He had the title, Official Music Master. He had also been a music master in the field.

Q Did you become a member of the National Socialist Party?

(Keiling-direct)

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A No, in 1932 I still wasn't in the party but as far as I know the Director of the school was already in the part and other various teachers in the music school, and in the period between 1932 and 1933 he constantly held lectures to me about the party and he said I should join the party. But I had no knowledge in politics and since I belonged to the Department of War since 1928, it was forbidden for us to join the party of any political activities. I never belonged to any party. Up until 1933 I didn't let any influence in that regard to be brought against me, but after 1933, when the Nazis took over power and it was constantly thrown in my face, I didn't have any alternative but to join the party.

Q How many children did you have at that time?

A I had five children in 1933. And I joined the party because I didn't want to lose my position in the music school. If you didn't join the party they would have quickly found another man to replace me in this class.

Q What is your religious preference, Mr. Keiling?

A Catholic.

Q You mean Roman Catholic?

A Yes.

Q Will you please explain how you became associated with the SS?

A When I was a teacher in this music school we had a rather large music hall where instruction was given to young people in the use of string instruments and older people, in the use of brass instruments, and we had an orchestra which was brought together and formed so these people could present concerts so their parents could see what progress they had made in the school.

Q Please explain the circumstances under which you came into the SS?

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nls/7

A Every Friday we had a rehearsal in this music school. There would be 36 or 38 former members of the military whohad 16 or 20 years of service behind them. After Hitler had taken over the power, after 1933, various SS people would come by this rehearsal, 1st and 2nd lieutenants of the SS, and they would constantly ask why this orchestra was off by itself. The SA had an orchestra and the SS would also like to have an orchestra. After a while the director of the music school was convinced by these people, and that is the way this music school orchestra came into the Allgemeine SS.

Q When was that?

A In May, 1933. At first they said to us that each one was free to do as he wished. If they had private affairs to take care of they wouldn't force us to play for the Allgemeine SS, but after we had been with them for sometime they insisted we stay with them. There wasn't any choice anymore and it went so far that in 1935 I stayed away from a concert where I should have been and I received a reprimand for it. At that time I was very much perturbed about this reprimand which came from Nuernberg and I announced my resignation from the Allgemeine SS and I did it in writing. And there was quite a commotion there, raised by the leader in the SS therein Bamburg and after my resignation had been handed in and I asked whether it would be approved, he said it was impossible for it to be approved, I couldn't resign. If I had been an ordinary man with the Allgemeine SS my resignation perhaps would have been accepted sooner. Because I was a musician it didn't go because musicians were needed.

Q After this period when you started playing for the SS, for whom else did you play?

A In my capacity as musician, as music teacher, I had various orchestras and we would play in different villages, round about. I would give my instruction in the music school and then I would go out to different

villages and direct orchestras, things of th t nature. I had various Catholic orchestras in Bamburg which I directed and I also had a band for the seminar of the Archbishop in Bamburg. The SS got wind of the fact that I was giving musical exhibitions for the church, that I was playing at burials and weddings and different processions, and I was denounced to a certain Gen. Schwesser. I was denounced to him in Bamburg. And then were other musicians who had a finger in that pot. They were all jealous because I had so much work for myself. And then, in 1936, I let my daughter be employed in a Jewish store in order that she learn to be a cashier, and she was there in this Jewish store until 1938 and although the Hitlerites SS demanded it of me very often, I did not resign from my church membership and so I constantly had enemies.

Q When did you get back into the active service of the military in this war?

A I didn't return to active duty at all. In 1939 I got an order to report to Grafenburg, Lechsenhausen, in order to take part in a training which would last for six weeks. The six weeks became a quarter of a year, almost, and I was released again on the 5th of January 1940, due to repeated requests for me from the music school.

Q Continue.

A And I continued giving musical instruction in the Bamburg music school. I got another military order to report to the draft on the 15th of February 1940. I was supposed to go to Flossenburg. I couldn't imagine why I was being drafted again after a lapse of four or five weeks. It so happened I was sick at the time. I reported to a civilian doctor and he prescribed that I stay in bed. He said that I had the clap. Since I was to report to the 56th Military Group there in Bamburg, since I was sick, my wife went and said I couldn't report. I couldn't be drafted because of my illness. My wife went three or four times to Nuernberg to Gen. Schwesser and twice a general was introduced to her.

(Will redirect)

as Gen. Schmauser. He said he was Gen. Schmauser but he wasn't Gen. Schmauser at all. But on the third occasion this general did allow my wife to see the real Gen. Schmauser. And then this general through it in my wife's face that I would be sent to Flossenburg as punishment, although he didn't know that I had returned from Oranienburg because the music school had asked for me. He gave her to understand that the reason I was being sent to Flossenburg was because I had constantly had connections with the Church. And he said that although I had been paid by the SS in the period between 1933 and 1939, I had often made excuses and didn't always show up when they wanted me to play for them. And, although I continually drew my salary, when I had something big on in regard to Church matters, I would say, "I can't play for the Allgemeine SS, I have to play elsewhere." I had a scene there with the Kapellmeister. He took the musical notes and threw them in the corner because I said that I wouldn't take part in that performance, I had a big concert to give in Bad Kisingen, etc., and he said he needed everyone of his musicians and he especially needed me as a soloist.

Q I show you defense Exhibit No. 30 for identification and ask you whether you've ever seen that before?

A Yes. That is a document in regard to my draft in 1940, after my wife had already made a request. I believe it is signed by Gen. Schmauser. The request was denied.

Q By whom is it signed?

A That's the leader of the 56th Garrison in Bamburg, his name is Bock, a 2nd Lieutenant of the SS.

Q When did you receive that, approximately?

(Keiling-Direct)

A On the 16th of February 19L0, no, on the 25th of February 19L0, th t's the date.

Q When did you arrive at Flossenburg?

A 4th of March, 19L0.

Q What was your rank when you arrived at Flossenburg?

A When I arrived at Flossenburg I had had the rank of sergeant of the Allgemeine SS.

Q What were y ur duties when you arrived at Flossenburg.

A I was a guard in Flossenburg from 19L0 until 19L1.

MR MC KAY: If it pleases the court, I would like to have the court's permission to take the accused, Petzleff from the court.

PRESIDENT: The court will approve the request of Mr. Mc Kay.

(Whereupon the accused, Petzleff, left the dock)

Q What duties did you have after that?

A Because of complaints of the military organizations I got my old rank back again in 19L1.

Q What rank was that?

A That was the rank of technical sergeant.

Q What military organizations are you speaking about?

A We aren't talking here about musical organizations, I'm talkin about military organizations.

Q What military groups brought about this change?

A The Kiefhauser Bund, the Reichskrieger Bund.

Q And of what are those organizations composed?

A These organizations are composed of former war veterans and former professional soldiers. They couldn't stand there and calmly see to it that their former comrades in the field who had ranks of technical sergeant or as high as officer would end up in the concentration camp with

the mere title of sergeant. And once they were in the concentration camp they would have to let themselves be commanded by the SS, young SS men, sometimes with the age of 18 years, with the rank of corporal and 20 years with the rank of sergeant, men who had won their rank in the 1st World War.

Q. What duties did you perform after you had your rank back?

A I had to perform guard duties just the same as I had done between the period of 1940 and '41 because the number of men who received their old rank back again was greater than the positions they could fill. Perhaps three-quarters of the people in the guard battalion were already sergeants.

Q Continue. What duties did you perform after that?

A I had to stand guard and have officer of the day dut.

Q For how long did you perform that duty?

A Until 1943, until the 1st of October 1943.

Q Then what kind of duty did you perform?

A The 1st of October 1943 I got the rank of Sturm Sergeant.

Q How did you get that rank?

A In May 1943 an order came out in the official order bulletin that anyone who after the last war had been part of the 100,000 men army or had more than twelve years service behind him would automatically receive the rank of Sturm Sergeant. My son-in-law had already informed me about this order when it first appeared in the official order bulletin, but I didn't take any pains to acquire this rank, but in September 1943 I had trouble with a 1st sergeant of the SS who wanted to make a report about an SS man. He wanted to know his name very urgently. He called me up several times to the telephone and wanted to know the name of the guard who stood duty.

Q We are not interested in that much detail. What was the highest rank you received while at Flossenburg?

A I was Sturm Sergeant.

Q When was it that you received that rank?

A The 1st of October 1943.

Q After you received that rank, what duties did you perform?

A I had the same duties which I had in the year 1940 and 1941. I had to be an escort guard for individual prisoners who had to go down into the housing colonies or into the villages. I had to go along as a guard with a pistol. I also had chief guard duty in the evening, exactly as I had before.

Q What do you mean, chief guard duty?

A I was the chief of the guard at night. And then, starting in October 1943, I had to be officer of the day. 1st Lt. Baumgartner abandoned the idea that camp leaders would have this duty and from then on would be sergeants and 1st sergeants who would have to carry this out.

Q What duties did you perform in that connection?

A That's the duty which this defense witness Kuefner testified about earlier.

Q You tell us about it.

A He told about the leader of the security service. In Flossenburg this gentleman in this capacity was called the leader of the security service but actually his real title was, leader of the service - duty leader. The duty leader had the guards under his supervision. The duty leader had a room for himself in the guardhouse. He had a desk there for himself in the guardroom and in the drawers of this desk were kept the records of the duty. When I took over this job in October, 1943, I found

a record inthe drawers of the desk, a fully written up record of the leaders of the service - of the duty leaders.

Q Just a moment. As this leader of the guards what duties did you yourself have to perform?

A The guard leader would be picked by the commanding officer and he would receive his orders from the commanding officer and he would have stretches of duty lasting 24 hours and he would get an order that, starting at 11:30 that afternoon he would have to take over the duties of the guard leader and relieve the other men. At 11:30 he would go to the guardroom and take over the guard from his predecessor. He'd have to put his signature down when he relieved him to certify that he had properly taken over the guard. Then both of them would take the official record and go to the adjutant and the adjutant would inspect the record to see whether anything new had happened.

PRESIDENT: Mr. Hall, the court feels this witness is going too much into detail. If you are going to tie these facts in with material that is going to be used, all right.

Q When did you leave Flossenburg the last time?

A On the 20th of April 1945.

Q What duty were you performing on that day?

A I had taken over my duty as guard leader that afternoon at 11:30 this day.

Q And in that capacity who was your superior at that time?

A In this capacity as guard leader the only one to whom I was responsible was the commandant of the camp. As soon as I had taken over my duties as guard leader I was subject no more to the jurisdiction of the commanding officer.

Q Approximately what time of day did you leave

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A Between 6:30 and 6:45 on the 20th of April 1945 I left the camp with my bicycle and my ba gage.

Q 6:45 in the morning or evening or what?

A In the evening.

Q Describe the circumstances under which you left.

A After the last transport had left the camp, around a quarter of 6:00 or 6:00 o'clock in the evening, a considerable number of civilians gath red around in front of the camp. The mayor of the town together with the country police had already arrived there and various voluntary militia which had taken over the camp.

Q All right, continue.

A I was standing guard alone with just another sergeant. The guards had already all left with the transport and I went across the road, the square, with my white arm band. I went over to the SS camp. Baumgartner and ~~1st Lt.~~ LT. COL. Koegel was standing with the mayor between the barracks and the headquarters building and he saw me and he asked me what I was doing there. He said I should see to it I left, he didn't need me anymore, and so I took my bicycle between 6:30 and a quarter of 7:00 I left.

Q With whom did you leave?

A Alone.

Keiling, I show you Defense Exhibit No. 89 for identification and ask you if you have seen this before?

A Yes, that's a diagram.

Q Of what?

A That's a diagram of the marching itinerary which the last transport took toward Poesing.

Q How do you know the last transport took that route?

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pls/lh

A Because I followed the transport which had prisoners who couldn't go any more or had to go back to the camp.

Q Who prepared that diagram?

A The accused, Becker, No. 1, prepared this sketch.

Q From what was that sketch taken?

A Taken from two different maps.

Q Reiling, I hand you pen and ink and ask you to draw the route that you took from Flossenburg on this evacuation march, making your marks on Defense Exhibit No. 2%, for identification. When you left Flossenburg whom did you meet?

A After I left the camp of Flossenburg I went on my bicycle to the town of Floss. I met a certain Hartmann, a 1st Sgt. of the SS. I met him in the middle of the street. He had a bicycle given to him by his relatives, by the people in his house, and then he drove on with his bicycle down by the railroad station. I met a 1st Sgt. of the SS, Prohaska.

Q At the time you met Hartmann and Prohaska, where were the prisoners?

A The prisoners were already away. They had already been half an hour at least on the way.

Q What time of day was it that you met these people?

A I met Prohaska probably a quarter of 7. It's 14 kilometers up from town to the railroad station.

Q What did you do then?

A We both went on foot in the direction the transport had taken.

Q Did you finally catch up with the transport?

A We finally caught up with the transport in front of Neuenhammer. There were all kinds of vehicles at the tail of the column, automobiles and carriages with horses. No, they were all vehicles with horses, no automobiles, baggage wagons and all kinds of vehicles.

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pls/15

Q To whom did you report when you arrived at the end of this column, at this scene?

A I didn't report to anyone.

Q How long were you with this evacuation transport.

A Until the 23rd of April 1945, forenoon, 10:15.

Q How did you happen to leave the transport at that time?

A Because the American troops arrived at 10:15.

Q What happened when the American troops arrived?

A The whole transport dissolved itself in all directions.

Q What duties did you have in connection with this transport?

A None at all.

Q How do you explain that fact?

A I wasn't given any duty with the transport, therefore I didn't have any duties to perform.

Q I call your attention to the testimony of the witness, Vesely, wherein he stated that you shot a prisoner. Who do you have to say in connection with his testimony?

A I never seen ~~Veseley~~ Vesely in all my life and so I don't know him at all. He also said he never seen me. I have no idea where I'm supposed to have shot a prisoner. I didn't have any reason to shoot a prisoner to death and I never would have thought of, anyway.

Q Did you or did you not shoot any prisoner to death or shoot at any prisoner, on this evacuation march?

A No, I never shot any prisoner. No, I never shot at a prisoner, either. I never insulted a prisoner in the slightest way. I never touched a prisoner or did any prisoner any harm or even addressed one.

MR. HALL: You may cross-examine.

PRESIDENT: Cross-examination.

(Veiling-direct)

Ta 5L0 10-22-46
pls/16

CROSS EXAMINATION

QUESTIONS BY MR. DENSON:

Q How many guards were there with this last transport that left Flossenburg?

A If you ask me to estimate the number of guards who accompanied the last transport, I can only give it to you in rough figures. I don't know the exact number.

Q That's perfectly all right.

A I believe that approximately 60 camp police were along with that and about 40 SS men. There were such a crowd of SS men in the camp in the latter part of the time and also men of the air force and also people from the army, that it was difficult to estimate the number. They came from everywhere, even the Navy and at the end you couldn't find anyone you knew.

Q Do you understand English?

A I understand more than I can speak.

Q Were you with this last columnwhen it was liberated by the Americans?

A Yes.

Q Isn't it a fact, Keiling, that they were so short of SS guards that they had to use the services of this camp police on the evacuation march?

A Mr. Prosecutor, when you ask me this question you are asking too much. I can't tell you the answer. I don't know anything about the camp police, how it ever came about. I didn't have anything to do with them and I don't know anything about the training of camp police in Flossenburg. I can't give you any information about them at all.

Q I didn't ask you that, Keiling. I asked you this question - isn't it a fact they were so short of SS guards on that transport they had to employ the services of the camp police?

A I don't know.

Q How many prisoners were there in this last column?

A I can only estimate that to you in rough figures. I wasn't there when they counted them off and divided them up. I was holding the chief guard then and I only saw them march out at the entrance. I had guard at the entrance.

Q Were you with this column from the 20th of April up until the time of liberation on the 23rd of April, were you not?

A No. I wasn't with the column. I was behind the column, usually two or three hundred meters behind it, and I didn't have anything to do with the transport column.

Q Who marched with you back there?

A 1st Sgt. of the SS, Prohaske.

Q Anyone else besides Prohaske?

A Yes, sometimes there would be vehicles back there and they would drive up front again and under way there would be troops that would be marching back from the front, etc.

Q But you maintained that position at the rear of the column from the 20th of April up until the 23rd, the time of the liberation, is that correct?

A Yes, I always walked in back of the column.

Q You never, at any time, went up forward to the head of the column?

A No, never.

Q Did you speak to any of the prisoners in that column?

A Not in the column itself. Perhaps I did that when we made a break, when the prisoners were taking a rest.

Q You mean that during the time during the rest period you would move up and join the column when they were sitting down, is that correct?

A No. For these three days the transport marched through the night only, marched at night. By day the prisoners rested and then it would happen occasionally you would speak to a prisoner about something or other. For example, at one time I gave somebody two loaves of bread. They wer quartered right in the immediate vicinity whe-e we were quartered.

Q Were some of these prisoners you conversed with Czechs?

A I can't speak Czechish, I don't know.

Q Did you speak in German to any of these Czechs, Keiling?

A I don't know. I don't know what kind of people we had in the camp with us except for individual cases where a man would have a "PO" on his lapel which would stand for a Pole, otherwise I didn't know one man from another. I didn't have anything to do with the prisoners in the camp.

Q And those prisoners still wore those marks of demarkation while they were on the evacuation march, did they not?

A I don't know that.

Q Well, those that you saw were still wearing the insignia they had to wear in the camp, were they not?

A I don't know. I can't tell you any more about that. I can't remember anything like that.

Q Your memory is pretty bad now, is that it?

A No. I never thought twice about it. If I had though I would be placed before court I would have paid more attention at that time.

Q You spent approximately five years there at Flossenburg, did you not?

A Yes.

Q During that time you occupied the position of a guard, did you not?

A Yes.

Q During that time you had occasion to observe the prisoners, the kind of insignia they wore and the nationality they were, did you not?

A Yes, I saw that.

Q Did you recognise any of the prisoners on this march as having been former inmates of Flossenburg?

A No, I didn't pay any attention.

Q During these three days, you didn't pay any attention to what they were wearing or who they were, is that correct?

A No, that's right.

Q Can you tell the court who it was who was in command of that column?

A Yes.

Q Who was it?

A 2nd Lt. Albert and 1st Lt. Halbleib and the company leader of the 2nd company, 1st Sgt. of the SS, Gurgul.

Q Approximately what portion of that column was commanded by the men you just mentioned?

A The whole column.

PRESIDENT: The court will take a half hour's recess.

(Whereupon the court, at 1500 hours, recessed)

(Keiling-Cross)

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Flossenburg

Camp Dachau, Germany
22 October 1946

AFTERNOON SESSION (Continued)

(Whereupon the court reconvened at 1540 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the personnel of the court are present; all the personnel of the prosecution are present except Mr. Pinter, who is absent on business for the prosecution; all the personnel of the defense are present; all accused are present except Buddenaieg, Olschewski, Oswalt, Jacubith, Matzke, and Lipinski, who are sick and whose interests are being taken care of by counsel. If there are any spectators present in the court room who expect to be called as witnesses in this case will they please leave the court room?

PRESIDENT: Continuation of cross examination, Mr. Denson.

KARL KEILING, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY THE PROSECUTION:

Q Keiling, who was the senior non-com of this column that you marched behind on this march?

A Senior non-com? There were a lot of non-coms.

Q Who was the senior non-commissioned officer?

A I don't know who was the senior non-commissioned officer of the column because I didn't have anything to do with the column.

Q Well who were some of the non-coms that you knew were in the column?

A The company commander of the second company, Sergeant Goergel.

Q Anyone else?

A I don't know.

Q You didn't see anyone else?

A If I did see any any of the others I didn't know them because there were so many non-commissioned officers from other regiments, from the Navy, from the Air Force and the Army, I don't know.

Q Well there weren't more than forty all together, were there?

A I think they were soldiers, I couldn't exactly say.

Q Will you answer my question, please? There weren't more than forty of these guards, were there?

A I don't know, it could have been more, it could have been less, too. I can't state. I can only give you an estimate.

Q That is your best judgment, is it not?

A Well I gave you an estimate, I don't know if that is my best judgment, simply my estimate.

Q All right, give us your best judgment.

A It could have been forty, it could have been fifty, or sixty, too. I'd say forty is my estimate.

Q Who was the last man you talked to in the camp? That is, before you left.

A The last man I talked to was the camp commandant, Lieutenant Colonel Koegel.

Q And he didn't give you any orders at the time you talked to him?

A He gave me an order to leave. He didn't need me.

Q He didn't tell you to accompany that column, is that

correct?

A No, he didn't say anything about accompanying the column but when he gave me the order to leave it was quite natural for me that I followed them, that I went to the same place the unit went.

Q And you had the same duties as the unit had, did you not?

A No. From this point on I no longer had any duties whatsoever. If I wouldn't have had my honor as a soldier I could have gone anywhere I wanted to go.

Q While you were following along in the rear of this column is it not a fact that you saw corpses of prisoners who were shot?

A I didn't see any corpses while we were marching. It was darkness so I couldn't see any corpses. I saw some dark figures sitting on the ground or lying, but I really can't tell you whether or not they were corpses.

Q Did you hear any shooting in the column during the three days you were accompanying it?

A I heard some shooting, yes.

Q How much shooting did you hear?

A When the first shot was fired I said to Sergeant Goegel, "Somebody must have messed around with his gun and one shot was released," but I didn't know anything about the whole matter.

Q And Goegel was with that column, was he not?

A No, I don't mean Goegel, I mean Prohaska, who was with me during those three nights. Yes, he was with me during those

(Keiling-cross)

three nights. He was always around me. Prohaska was the conductor of an orchestra from Vienna and we were always together and we would play together.

Q Wasn't it unusual for two SS men to be marching along to the rear of that column when the authorities had to enlist the aid of the camp police in order to guard the column as it marched along?

MR. HALL: I object to the question on the ground that it is argumentative.

PROSECUTION: I will change the form of that question, if it please the court.

QUESTIONS BY THE PROSECUTION:

Q Was it unusual, Keiling, for two SS sergeants to march along to the rear of this column with no duties whatsoever when the authorities had to use camp police in order to guard the column?

A I don't quite understand this questioning. Unusual?

PROSECUTION: You don't understand the term "unusual"?

ACCUSED KEILING: I can't quite figure out what you mean by "unusual"?

PROSECUTION: Was it unusual, out of the ordinary, Keiling, for two SS sergeants to march along at the rear of this column with absolutely no duties when the authorities found it necessary to enlist the aid of the camp police to guard the column?

ACCUSED KEILING: I myself had nothing to do with the column and how far Technical Sergeant Prohaska was connected

with the column I can't tell you, but there were so many non-commissioned officers and guards that they didn't need us individuals.

Q. Isn't it a fact that you were with Prohaska the entire time?

A Yes.

Q Why is it you say you don't know what Prohaska had to do with the column?

A Because he was together with me all the time so I don't know whether he had any orders from higher authorities, from camp headquarters, but he had orders to go with the column and he had left earlier, too, and I only met him at the railroad station at Flossenburg, and we were talking to some civilians there.

Q It is a fact, is it not, that there weren't enough non-commissioned officers and soldiers and privates of the SS and for that reason they used the camp police to aid in guarding these prisoners?

A I don't know that. There were so many SS men and guards that they probably wouldn't have needed the camp police.

Q Approximately how many guards were used to watch the prisoners during the time you served as a guard in Flossenburg?

A When Lieutenant Colonel Koegel took over the camp he issued an order to the effect that he wanted to see all the guards and other people who were performing guard duty in the camp of Flossenburg on their duty while they were doing duty and that he didn't want anybody to run around during the day while he was on duty.

Q Tell the court, please, Keiling, approximately how many prisoners would be guarded by a single guard during the

time you were a guard at Flossenburg?

A A single guard was never allowed to guard one prisoner all by himself. If one prisoner was to be guarded there were always two guards needed.

Q So that on the average then for every prisoner sent out from Flossenburg there were two guards to watch him, is that correct?

A No, that's not right, only when one single prisoner left camp two guards were required to guard him, but if a number of prisoners were sent out of camp to the work place the number depended on the size of the detail. Ten or fifteen guards would be appointed.

Q Ten or fifteen guards would be appointed to approximately how many prisoners?

A That varied.

Q Varied with what?

A It could have been twenty-five prisoners, it could have been fifty, too. It depended upon the conditions at the place of work. When the prisoners were working in a building there would be just a small number of guards but if the prisoners were working in the open so that the guards had to form a chain of guards around the prisoners due to the fact that there was no fence, there would be a larger number of guards. It depended on the terrain, too. If the country was flat they didn't need so many guards but if the terrain was hilly a larger number of guards was employed.

Q When they went out on marches or worked on the road how many prisoners would be guarded by one guard?

(Keiling-cross)

A When the prisoners went on the road on a march two guards would be ahead of the prisoners, several guards, depending on the number of prisoners, in the rear and on both sides. Guards would accompany the prisoners at a distance of about ten meters.

Q So that there would be a guard approximately every ten meters where there were prisoners, is that correct?

A The distance was about ten meters, yes, on the right and on the left hand side.

Q Was that same ratio maintained on the march from Flossenburg?

A I don't know. I don't think so, because at that time we were going on a retreat and everyone was pushing forward and it was pitch dark at night and raining, too. The rain was pouring during the last two nights.

Q So that under those conditions they would have more guards even than they would have under normal and better conditions, is that correct?

A I don't know that either. I don't know how many guards there were. I don't know how or when they were assigned. Previously I was only talking about the assignment of guards when prisoners moved out of the camp in order to go to their places of work.

Q Approximately how many shots did you hear when you were guarding this column?

A During the first night I only remember the one shot I previously mentioned and it was pretty close to midnight. After

that I heard less shooting go on. I can't tell how many shots were fired.

Q You say you heard less shooting. You mean you heard less than one shot?

A After the first night I heard less shooting. I don't know how many shots there were.

Q Well did you hear any more shots after the first shot you heard?

A Now and then you would hear shooting, yes.

Q And when you say now and then did that take place during the day as well as during the night?

A No shooting was going on during the day. The prisoners rested during the day.

Q In other words they only shot during the night when they were marching and the prisoners weren't able to go ahead, is that correct?

A I don't know whether the prisoners were able to go ahead on the march. That is all beyond my knowledge. During the day no shooting was going on but we would hear some shots during the night. I never heard shooting during the day time.

Q Were you familiar with the order that Lieutenant Colonel Koegel put out that no Russian, no Pole, no Jew should fall into the allied hands?

A No, I am not familiar with it.

Q You never heard of it before this trial, is that correct?

A No, I never heard about that before this trial and

what I heard in this trial is beyond my imagination. I heard one order issued by Lieutenant Colonel Koegel and that was on Sunday, April 15, in the hall of the theatre. On that occasion he called all the guards and the members of headquarters together and addressed them in speech. In the course of his explanation he said the following: If one SS man or a member of the guard battalion would not carry out his order and would strike or something like that, I think he said something else, too, he had the power and authority to shoot anybody personally with his own hands and this authority was given to him by General Martin, Chief of the SS Police Court in Nuernburg.

Q What were these orders that Lieutenant Colonel Koegel stated he wanted carried out?

A He apparently was referring to the order he had issued on the 16th of April. On that day we had left camp with our prisoners and the context of the order was that he would have authority to shoot guards who wouldn't carry out his order. He said he would do the shooting personally with his own hands. But during the night of the 16th we were ordered back to camp.

Q Did you make any efforts to ascertain what these orders were that you would be shot if you failed to carry them out?

A That is quite clear. If somebody didn't carry out the orders of Lieutenant Colonel Koegel, he had the authority to shoot this man and he was given this authority by General Martin.

PROSECUTION: Will you answer my question, Keiling?

MR. HALL: If the court please, I believe the witness has already answered that question. He just a moment ago said

the order concerned anyone deserting or attempting to escape, that is, a member of the SS or a guard.

PRESIDENT: The objection of defense counsel, Mr. Mall, is overruled. Carry on.

PROSECUTION: Will you please repeat my last question?

(Whereupon the reporter read the question as follows:

"Q Did you make any efforts to ascertain what these orders were that you would be shot if you failed to carry them out?")

A Well if an SS man would escape during the march or if he wouldn't carry out the orders of Lieutenant Colonel Koegel.

Q Yes, Keiling, and these orders of Lieutenant Colonel Koegel are what I am interested in. Will you tell us what these orders were that you would be shot if you refused to carry them out?

A I don't know, I don't know what they were, I don't know what kind of orders those were.

PROSECUTION: Just a minute. Will you please just answer my questions?

ACCUSED KEILING: Yes indeed.

QUESTIONS BY PROSECUTION (Continued):

Q Now, Keiling, did I understand you to say that the closest you got to this column was approximately two hundred meters?

A It could have been that I got a little closer, one hundred meters and sometimes a distance between me and the column would be kilometer.

Q Well during that time you were in view of the column, were you not?

A Well it was during the night and sometimes now and then

I would see the column and sometimes I wouldn't. The third night I didn't see them at all.

Q Didn't they have a burying detail that marched along at the end of that column?

A I don't know.

Q Did you see anyone burying corpses following that column?

A No, that is true, as true as I am sitting in this chair.

Q Did you see any corpses, Keiling?

A No, I didn't see any corpses.

Q Did you hear that there was a burying detail that followed after you?

A No, I didn't know that, and I didn't see any burying detail.

Q I didn't ask you if you saw it, I asked you if you heard about it, Keiling.

A No, I didn't hear anything about a burying detail there.

Q Do you know whether any prisoners died on that march?

A I don't know whether any prisoners died on this march. We were marching during the night and I don't know if any died.

Q Did you hear that any prisoners died on this march?

A No.

Q Are you sure you followed this column?

A Yes.

Q Just one other question. Did you receive any payment for the services you rendered to the church?

A Not always.

Q Did you ever?

A Yes.

PROSECUTION: That's all.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONSBY MR. HALL:

Q Mr. Keiling, where is this Prohatska concerning whom you have spoken?

A I repeatedly requested Mr. Kirschbaum to look for Prohatska and now I receive information that he is in Gerra in the Russian Zone. He was a member of the air force and apparently he was discharged from the air force. On the last day I took him to the hospital. He was severely wounded and from eleven o'clock in the morning until six o'clock at night I carried him through the woods to Roding.

Q You have testified that you were the leader of the guard on the day of departure.

A I was not leader of the guard, I was officer of the day and I was in charge of the sergeant of the guards.

Q All right, officer of the day then. Now who had authority to give you orders at that time?

A Only Lieutenant Colonel Koegel and his adjutant had authority to give me orders.

Q You have testified that you had an illness prior to the time you came into the SS about 1940. What was that illness?

A I was suffering from a Grippe.

MR. HALL: If the court please, I should like to state it is my understanding that the original disease was an improper

translation, which fact will be confirmed by the interpreter, Mr. Velte. Is that correct, Mr. Velte?

INTERPRETER MR. VELTE: Yes, sir.

PRESIDENT: The record will so indicate. Are there any further questions by the defense at the present time?

MR. HALL: Nothing further, sir.

PRESIDENT: Recross?

PROSECUTION: Nothing, sir.

PRESIDENT: Questions by the court. Colonel Jackson.

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q What was your rank during the time you were at Flossenburg?

A From 1940 to 1941 I didn't have any rank, and then I received my old rank as staff sergeant. In the beginning of October, 1943, I got the rank of sturmscharfuehrer (warrant officer) on the basis of my thirteen years of military service with the Army.

Q Was a warrant officer considered a non-commissioned officer in the German Army?

A Yes.

Q Did you ever serve as a guard at Flossenburg?

A Yes.

Q That is, as a private?

A Yes, as a private and as an ordinary SS man.

Q How many guards were usually placed in the charge of a non-commissioned officer?

A None as a rule. The non-commissioned officers would

(Keiling-court)

be appointed by the company commander and so were the guards. It could be that there were ten guards or five guards or only two. That varied.

Q Were non-commissioned officers placed as guards over prisoners?

A Yes, always. All the time.

Q Isn't it rather unusual to have non-commissioned officers guarding prisoners?

A No, that was nothing unusual, that occurred daily. The non-commissioned officers had to stand guard as well as anybody else. If he was a sergeant he had to carry a rifle and if he was a staff sergeant he was wearing a pistol.

Q I believe the witness misses the question. Did the non-commissioned officers have privates under them or did they actually guard the prisoners themselves?

A They had 33 privates under them. They were in charge of 33 privates but they also had to guard prisoners. They were used as sergeants of the guard.

Q Did they do the duty of a private soldier?

A Yes.

Q In a column of one hundred prisoners in a transport on the road how many privates would be used and how many non-commissioned officers to guard the prisoners?

A For one hundred prisoners they would use approximately fifteen to twenty guards and about three non-commissioned officers, and the detail leader who was either a non-commissioned officer or a block leader was present too. He was in charge of the prisoners. The guards or the non-commissioned officers from

(Keiling-court)

be appointed by the company commander and so were the guards. It could be that there were ten guards or five guards or only two. That varied.

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(Keiling-court)

the guard detail who acted as guards didn't have any authority over the prisoners. That was for the block leader.

Q Now at the end, just at the time of the evacuation, was there a surplus of privates of the guard and also a surplus of non-commissioned officers?

A Yes, there was a great surplus of SS men and of guards because SS men were coming to Flossenburg from everywhere, from Lublin, Auschwitz, from Gross Rosen, there was really a great surplus and also from the Army, from the air force, and from the Navy. Everybody retreated and came to Flossenburg. I had occasion to talk to a man who was working in the kitchen and he told me that food was being distributed —

COLONEL JACKSON: Never mind that. My next question is what was the camp police used for on the evacuation march?

ACCUSED KEILING: They apparently were used for guarding the prisoners.

QUESTIONS BY THE PRESIDENT:

Q Keiling, just what were your duties on this evacuation march?

A I didn't have any duties whatsoever on this evacuation march. It was my duty as a soldier to go to the same place where the troops went.

Q Did you have any responsibilities on this evacuation march?

A No, not the least responsibility.

Q Did you see fit at any time during the course of the evacuation march to issue any orders?

A No, I wasn't authorized to issue any orders because

there were two officers present at that evacuation march and I couldn't give any orders.

Q Did you attach yourself to this column and march with this column?

A No, I didn't. The column left the camp earlier than I did. The column took off between five thirty and six o'clock and I didn't leave until six forty-five or seven o'clock and at that time the column had already left. That was the last column. The way went down hill and I met prisoners who weren't able to walk and so they came back to camp.

Q Didn't you march with this column a good part of the time?

A I never marched in the column itself. I was always behind it two or three hundred meters distance, or sometimes even a kilometer.

Q Did you ever receive any orders from any non-commissioned officer senior to you during the course of the march?

A I didn't receive any orders during the course of the march from anybody.

Q During the course of halts of this column did you remain two or three hundred meters or a kilometer in the rear also?

A No, then I approached the column and I almost caught up with it.

Q Did you mess with the column?

A I saw the column during the nights.

Q I don't think you understand. Did you eat with the column.

A Yes, I did meet —

(Keiling-court)

PROSECUTION: May it please the court, I believe the interpreter said "meet" instead of "eat".

(Whereupon the interpreter repeated the question, as follows:

"Q —Did you eat with the column?")

ACCURED KEILING: No, I didn't eat, I didn't take my meals with the column. During the day while the column was resting I would go to some farmer's barn or house and I had nothing to do with the column.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q Keiling, you have previously testified that in 1941 you were a technical sergeant, is that correct?

A Yes, on the 1st day of February, 1941, I got my old rank back again, th rank of technical sergeant which I had already held in the one hundred thousand man army.

Q What rank did you receive on the 1st day of October, 1943?

A At that time I received the rank of warrant officer on the basis of my thirteen years of military service.

LIEUTENANT COLONEL SKIELVIG: What I want to check right now is the interpretation. You have used the word warrant officer. Previously it was interpreted as staff sergeant. I want to find out whether it is staff sergeant or warrant officer.

INTERPRETER: Well we used a manual and according to the manual warrant officer is the word for sturmscharfuehrer.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG (Continued):

Q Now, Keiling, in all the years you were with the guard in Flossenburg did you ever see any prisoner killed, did you ever

see anyprisoner beaten?

A During the period of time I served in Flossenburg I saw prisoners beaten but I never saw that prisoners were killed. I always saw prisoners mistreated.

Q Did you ever see any prisoners run into the wire?

A I saw one prisoner and at that time I myself had the misfortune to be present when the prisoner climed up the fence and when he was already on top of the fence. And this incident took place in 1940 in April.

Q In other words in almost five years you only saw one man run into the wire and you never saw prisoners beaten to death or killed? You just saw them mistreated, is that what I am to understand?

A During the entire period of time I was in Flossenburg I once had the misfortune of seeing the prisoner while he was climbing up the fence and while he was on top of the fence in order to escape.

Q Did you ever see a prisoner publicly hanged?

A I didn't see that but I saw a prisoner hung at the roll call of the prisoner compound where the life boat is standing. And at that time my attention was drawn to this man by a member of the guard unit or some other person, I don't know. But another person wouldn't even have noticed that. The distance between my quarters where I was living and the prison compound was rather large and we never were required to watch a thing like that. We weren't even allowed to.

Q Keiling did you ever know there was a crematory at Flossenburg?

(Keiling-court)

A Yes.

Q How did most of those people get to the crematory, what was the cause of death of most of the people who went to the crematory, if you know?

A I don't know that, I don't have the slightest idea, I never saw the crematory from the inside. I only saw it from the outside because there was a sign "Authorized Personnel Only", and it was forbidden for me to enter and I observed those rules.

Q When you kept the guard record book in the guard room when you were leader of the guard did you ever have any occasion to record any deaths?

A While I was in Flossenburg I was very lucky and I never had to record a death case while I was sergeant of the guards or guard leader. While I was officer of the day there was no death case either and even when the number of the air attacks during the night increased to a great extent I didn't have any death cases to record. Throughout the entire time I was officer of the day there was no air attack during the night and all these things like air attacks and fogs had to be entered in the guard record. Toward the end there were eight non-commissioned officers who would act as officer of the day who would swap. I can give you the names of those officers.

LIEUTENANT COLONEL SKIELVIG: That isn't necessary, Keiling. I'd like to know to the best of your estimation how many persons were in this last evacuation column. Were there one thousand, two thousand, three thousand, or how many?

ACCUSED KEILING: If you want to have an estimate, my

best judgment would be two thousand at best, or maybe two thousand five hundred, but no more.

Q And I am correct in understanding that after following that column for three days you didn't see or know of a burying detail, you didn't see anyone shot, you only heard a few shots, you never saw a corpse, you never saw a grave?

A Yes, that's right. We were marching during the night and it was pitch dark and I couldn't see any burying detail nor could I see corpses.

Q What time did you start your march in the evening?

A Seven thirty or eight o'clock.

Q Was it dark then or was it twilight?

A No, it wasn't quite dark yet but then you couldn't see any burying detail or any corpses because we were in a village and shortly after we started marching it was good and dark.

Q What time did you stop marching in the morning?

A 3:30, 4:00 o'clock, 4:30, something like that.

Q What did you do when you stopped marching?

A I went into some farmer's house or into some barn to wash myself and to eat something and prepare myself to go to sleep.

QUESTIONS BY THE PRESIDENT:

Q Keiling, were you armed during the course of the evacuation march?

A Yes, Mr. President.

Q What kind of weapon did you carry?

A I carried a pistol.

Q Did you have any occasion whatsoever to use that pistol

at any time during the course of the evacuation march?

A I never used this pistol. I never took the pistol out of the holster. If I had my pistol here that would be my best defense witness.

Q Then you never took it out to clean it?

A No, never, I never took it out. The pistol was clean and there was a cork in the barrell of the pistol.

Q Is it customary in the German Army to go for three days without cleaning a pistol?

A It wasn't necessary to clean the pistol.

QUESTION BY LIEUTENANT COLONEL SMILY:

Q What was your status on April 23, 1945, were you a civilian or in the SS?

A In April 1945 I was an SS man at the time.

QUESTIONS BY THE LAW MEMBER:

Q What kind of pistol did you have, Keiling?

A I had an Army pistol.

Q There were several kinds of pistol used by the German Army. Can you enlighten us a little further?

A It was an Army pistol 0.8.

PRESIDENT: Are there any further questions by any member of the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTION BY MR. HALL:

Q Who had authority to enter the prison compound?

A No member of the guard company had authority to enter the prisoner compound.

(Keiling-redirect)

MR. HALL: That's all, sir.

PRESIDENT: Recross?

PROSECUTION: No further questions.

PRESIDENT: Are there any further questions by members of the court? Apparently not.

LIEUTENANT COLONEL SKIELVIG: Yes, sir, I have one.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q Where was the crematory located?

A The crematory is located exactly on the same spot as stated by the Prosecution witness, Bodet.

Q In other words, it is outside the enclosure, is that correct?

A It is outside the wire fence.

Q Were you ever guarding the towers?

A There is an extra wire fence around the prisoner compound.

Q Were you ever a guard in one of the towers?

A No, never in those stone towers. At the time I was serving as guard we still had the old wooden towers.

Q That is what I am referring to, the old wooden towers.

A 1940 to 1941.

Q Could you see inside the prisoner enclosure?

A Yes, one could see into the prisoner enclosure.

LIEUTENANT COLONEL SKIELVIG: No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Doctor Wacker.

REDIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q I am asking these questions on behalf of the accused,

Buddensieg. How many guards' companies were there at Flossenburg?

A There were three guard companies.

Q Throughout the entire time?

A No.

Q Please describe how the guard battalion or the guard company was divided up beginning the 1st of January, 1942.

A On the 1st of January, 1942 we still had three companies but later on one company was made out of these three companies.

Q When did that take place?

A That was when Lieutenant Colonel Koegel arrived.

Q When was that?

A Lieutenant Colonel Koegel arrived at about August or September, 1943.

Q Then am I correct in understanding that from January, 1942 to August, 1943, there were three companies and from that time on only one?

A Yes, that is right.

Q Who was in charge of the first three companies? I am talking about the companies from January, 1942 to September, 1943.

A A first lieutenant of the SS, Kuenstler, was in charge of these three companies. He was camp commandant at the same time.

Q Was he commander of the guard units?

A Kuenstler was battalion commander of the guard units.

Q Under whose command were the individual guard units?

A The individual guard companies were under the command of their respective company commanders.

Q Do you still remember the names of the company commanders?

A Yes, I do.

(Keiling-redirect)

Q Please give the names of the company commanders.

A Captain Buddensieg was in charge of the 1st guard company in 1942, 1st Lieutenant Heimann was in charge of the 2nd company and the commander of the 3rd company was 1st Lieutenant Ridderbusch.

Q Is the man Buddensieg you mentioned the same person as the accused No. 7 who is confined in the hospital at the present time?

A Yes.

Q If members of the guard company were doing guard duty were they still under the command of their company commander.

PROSECUTION: Just a minute. May I object to that question on the ground that it is suggestive and leading?

PRESIDENT: The objection is sustained.

QUESTIONS BY DOCTOR WACKER (Continued):

Q Under whose command were the guards when they were on guard duty?

A In order to clarify that there are two things I will have to tell you. The guards who were forming the chain of guards around the stone quarry or around the prison compound and weren't doing chief guard duty were under the command of the guard company but those guards who were posted as guards during the night were no longer under the authority of the commander of the guard company.

Q But Keiling I am only referring to the guards standing guard at the wire fence, in the first place, to the guards on the towers. Under whose command were those guards?

A I must give you an explanation of that first.

DR. WACKER: In that case I withdraw that question.

PROSECUTION: Sir, I would like to hear what went on. To tell the truth, I heard nothing.

PRESIDENT: Will you read the last question and answer.

(Whereupon the reporter read the question and answer, as follows:

"Q But Keiling I am only referring to the guards standing guard at the wire fence, in the first place, to the guards on the towers. Under whose command were those guards?

"A I must give you an explanation of that first."

MR. HALL: Sir, I'm afraid there's some confusion here. That question isn't clear.

PRESIDENT: Will the reporter read that last question and answer again.

(Whereupon the reporter repeated the last question and answer.)

MR. O'CONNOR: Just a moment, sir. I believe Doctor Wacker made the statement that he withdrew the question, is that correct?

REPORTER: That is correct.

PRESIDENT: Is there any further redirect?

DOCTOR WACKER: Nothing.

MR. HALL: No further questions.

PRESIDENT: Any recross?

PROSECUTION: Nothing further.

PRESIDENT: The court understands that the defense has finished with this particular witness at this time.

MR. HALL: Yes, sir.

PRESIDENT: The witness will be excused and will resume

his place in the dock.

PRESIDENT: The court will take a short recess.

(Thereupon the court recessed in place and reconvened at 1705 hours.)

PRESIDENT: The court will come to order. The court desires at this time to make a statement as far as policy is concerned. In the event of an objection on the part of prosecution or defense the objection will be so stated and the reasons therefor indicated. There will be no argument in case of objections unless the court so indicates. The court will adjourn until 9:00 o'clock tomorrow morning.

(Thereupon the court adjourned until 0900 hours, 23 October 1946.)

his place in the dock.

PRESIDENT: The court will take a short recess.

(Thereupon the court recessed in place and reconvened at 1705 hours.)

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(Thereupon the court adjourned until 0900 hours, 23 October 1946.)

CA/GI 13

Court
Legal Form No. 8.
First Duplicate
Copy

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Pages 5491 - 5565 incl.

Case No. .....

~~Summary~~
~~International Military Court~~
*General

Place DACHAU, GERMANY

Date 23 October 194 6
0900 - 1700 hours

~~Members of Court~~
WITNESSES:
KURT GOTTZMAN
OTTO FREESE
KARL GRAEBER

Prosecutor .....

Defence Counsel .....

Interpreter .....

Reporter .....

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

In trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

23 October 1946 0900 - 1700 hours Pages 5491 - 5565 incl.

TESTIMONY

WITNESS:	Direct	Cross	Redirect	Recross	Court
GUTTZMAN, KURT	5493	5504			5507
FREESE, OTTO	5514	5524	5533	5536	5533
GRAEBER, KARL	5537	5556	5563		

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-23-A	English Translation		5492
D-30	Order Relating to Transfer Keiling		5492
D-30-A	English Translation		5493
D-29	Overlay Map		5493
D-76	Fragebogen of Kurt Guttzman	5506	5506
D-31	Map	5518	

TA 542-10-23-afh-1
Floss

Camp Dachau, Germany
October 23, 1946

MORNING SESSION

(Thereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court and all the personnel of the prosecution are present; all the personnel of the defense are present with the exception of Mr. McKay, who is absent on business of the accused; all the accused are present with the exception of Rudensieg, Olschewski, Oswalt, Jakubith, Lipinski, Eisbusch and Matzke, who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The court has appointed Eve Fridell Hawkins, U. S. civilian as reporter.

(Whereupon Eve Fridell Hawkins, U. S. civilian, was sworn as reporter).

DEFENSE COUNSEL: If the court please, I have consulted with the accused, Keiling, this morning and he does not have anything which he wishes to tell the court and therefore will not resume the stand.

PRESIDENT: Very well.

DEFENSE COUNSEL: If the court please, I offer in evidence Defense Exhibit 28-A, it being the English translation of Defense Exhibit 28, both exhibits relating to a receipt identified by the witness Bonhauer.

PRESIDENT: Any objection?

PROSECUTION COUNSEL: No objection.

DEFENSE: I offer in evidence Defense Exhibit 30, purporting to be an order relating to the transfer of the accused Keiling to Camp Flossenburg.

PROSECUTION: No objections, sir.

PRESIDENT: Subject to objection on the part of any member of the court, Defense Exhibit 28-A will be received by the court in evidence and given such weight as the court sees fit.

(Whereupon the document heretofore marked Defense EXHIBIT No.28-A for identification was received in evidence as Defense Exhibit No.28-A, is attached hereto, and made a part of the record.)

PRESIDENT: The court understands there are no objections to Defense Exhibit No.30.

PROSECUTION: No objection, sir.

PRESIDENT: Subject to objections on the part of any member of the court, the court will receive Defense Exhibit 30 in evidence and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit No.30 for identification was received in evidence as Defense Exhibit No.30, is attached hereto, and made a part of the record.)

DEFENSE: I offer in evidence Defense Exhibit 30-A, the same being a translation of Defense Exhibit 30.

PROSECUTION: No objections, sir.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive in evidence Defense Exhibit 30-A and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit No. 30-A for identification was received in evidence as Exhibit No. 30-A, is attached hereto, and made a part of the record.)

DEFENSE: I offer in evidence Defense Exhibit No. 29, the same being an overlay map of the area described in connection with the testimony of the accused Keiling.

PROSECUTION: No objections, sir.

PRESIDENT: Subject to objection on the part of any member of the court, the court will receive Defense Exhibit No. 29 in evidence and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit No. 29 for identification was received in evidence as Defense Exhibit No. 29, is attached hereto, and made a part of the record.)

PRESIDENT: The court will take a short recess in place.

PRESIDENT: The court will come to order.

DEFENSE COUNSEL: Call Otto Fröese.

The Defense calls its next witness Otto Fröese.

DEFENSE: If the court please, this is the witness Gottsman.

PRESIDENT: All right, just a minute.

DEFENSE: The Defense calls its next witness Gottsman rather than Fröese.

KURT GOTTZMAN, called as a witness by the Defense, being first duly sworn, testified through an interpreter as follows:

PRESIDENT: Take the witness stand.

QUESTIONS BY DEFENSE COUNSEL:

Q Please state your name.

A Kurt Gottaman.

Q Your age?

A 25 years old.

Q Your nationality?

A German.

Q What is your civilian occupation?

A Farmer.

Q Do you know a man by the name of Graeber?

A I do.

Q Look into the dock and identify him if you can.

A Over there (indicating).

DEFENSE COUNSEL: Let the record show that the witness has correctly identified the witness Graeber as No. 16.

PRESIDENT: The court understands that this witness is a prisoner of the Americans in Dachau.

QUESTIONS BY DEFENSE COUNSEL:

Q You are a prisoner of the Americans here, is that correct?

A I don't understand.

Q I say, you are a prisoner here in Dachau, held by the Americans, is that correct?

A Yes.

PRESIDENT: The court at this time will advise you, Gottaman, that if at any time you should be asked any question that might tend to incriminate you, you have a right to ask the court to refrain from answering. You understand your rights in that respect?

THE WITNESS: Yes.

PRESIDENT: Proceed, Mr. Hall.

TA 542-10-23-eft-5

QUESTIONS BY DEFENSE COUNSEL:

Q Were you at Camp Flossenburg at any time Gottsman?

A Yes.

Q When did you leave Flossenburg?

A It might have been in March or April.

Q What year?

A 1945.

Q Do you recall the date?

A No.

Q By what means of transportation did you leave Flossenburg?

A We were alone on the train.

Q Who was with you at that time?

A All of us were put into the train and Graeber was amongst us.

Q Where were the prisoners?

A They were in the train too.

Q Where did you go on that train?

A We were supposed to travel in the direction of Dachau.

Q How long did you remain on the train, - that is, up to what town?

A Up to Schwarzenfeld.

Q During the train trip from Flossenburg to Schwarzenfeld what duties did Graeber perform?

A He was a guard.

Q How was he armed?

A He was carrying an Italian rifle.

Q What duties did Graeber perform at Schwarzenfeld?

A There he was a guard too.

Q Where did you next see Graeber after Schwarzenfeld?

TA 5A2-10-23-afh-6

It was about 10 or 11 kilometers outside Schwarzenfeld.

I show you Defense Exhibit 31 for identification and ask you if you have ever seen this before? What is that document?

A That is a piece of woods. That is where I saw Graeber.

Q Is this a map of the area in which you met Graeber?

A Yes.

Q Now I give you this brown pencil and ask you to please mark a dot -- a large dot -- at the point where you met Graeber in the woods.

(Thereupon the witness did as directed.)

Q Now, how long after you had left Schwarzenfeld was it before you met Graeber at this place in the woods?

A It was during the first night after we had left Schwarzenfeld.

Q Who was with Graeber when you saw him?

A His name was Reichmann.

Q What happened after Graeber arrived?

A The next morning an air attack took place, that is, on the morning when he arrived. Yes, there was an air attack and we were strafed by low-flying planes and some baggage and his rifle burned down.

Q Some baggage and whose rifle?

A Graeber's rifle.

Q Now after the air raid what happened?

A We changed position.

Q Who was the individual in command of your group?

A That was Schmidt.

Q Where is that Schmidt at the present time?

A He must be around here in camp somewhere; I saw him once.

Q When did you see him?

A Last week.

Q Now what happened after you moved deeper into the woods?

A In the evening we moved to another part of the woods.

Q And then where did you go?

A We spent the day there and in the evening we went to the town of Fuhrn.

Q Where did you go after Fuhrn? What happened then?

A We moved on in the direction of Neunberg.

Q I give you this brown pencil again and ask you to mark on Defense Exhibit No. 31 with a line the route that you took from the forest on, by way of Neunberg.

(Thereupon the witness did as directed.)

DEFENSE COUNSEL: Continue now to mark the route that you took.

(Thereupon the witness did as directed.)

QUESTIONS BY DEFENSE COUNSEL:

Q Now you have drawn a line in brown from Fuhrn to Roding. While you were marching over that route, where was Graeber?

A He was with our column.

Q How was he armed during that period of time?

A I did not see any weapon on him.

Q Where were the prisoners during that period of time?

A They were marching with us.

Q During the time that you saw Graeber, what function of command did he exercise?

A He was just a guard and he did not have any weapon, so we just marched along.

Q From Flossenburg to Schwarzenfeld and up to the forest he had a weapon, is that correct?

A Yes.

Q During the time that you were with Graeber how did he treat the prisoners?

A He did not have anything to do with the prisoners at all.

Q What do you mean by that now?

A That he was not allowed to touch prisoners as a guard.

Q During this march from the forest to Rodin, how far were you from Graeber approximately?

A I was marching in the center of the column.

Q And where was Graeber marching?

A He was at the end.

Q How far away was he from you?

A I cannot relate to that.

DEFENSE COUNSEL: No further questions.

CROSS EXAMINATION

QUESTIONS BY PROSECUTION:

Q Approximately how many prisoners, gentlemen, left on that train from Flossenburg?

A I don't know exactly; it could have been 1000; it could have been 1500 too.

TA 542-10-23-erh-9

approximately 4000 also?

A Yes, I could say so.

and it was the duty of the guards, was it not, to prevent the prisoners from escaping from that particular group?

A There was an order not to shoot.

Q There was an order?

A There was an order not to shoot.

Well, you were carrying weapons, weren't you?

A Yes, we were carrying weapons.

And you were carrying ammunition in the weapons, weren't you?

A Yes.

And who was it gave the order not to shoot?

A That was Major Berger, the Commander of the shipment.

Will you tell the court how many prisoners ran away.

A I don't know.

Did any run away?

A I didn't see any.

How many were killed on this transport approximately?

A I don't know that either.

Well, what is your best judgment about it?

A I didn't see any.

Did you hear about any?

A No, but they were killed during air attacks.

Well, were any killed other than during air raids?

A As far as I know, not any; at least, I didn't see any.

Q Well, did you hear about any being killed that were not killed during air raids?

A No.

Q Now after you got to Schwarzenfeld, the prisoners were divided into groups of 100 or 150, were they not?

A Yes, that was in the evening.

Q And Graeber was placed in command of one of these groups, was he not?

A No.

Q Who was in command of the group that Graeber marched with?

A I only know that we had already marched off and that Graeber was in the last group and I think he was together with Sommerfeld.

Q Well, now, Sommerfeld was in charge of that portion of the marching column, was he not?

A Yes.

Q And Graeber had charge of one of the smaller groups of 100 or 150 prisoners, isn't that correct?

A No.

Q You are certain about that?

A He never was a transport leader or a commander of a column.

Q I didn't ask you that; I asked you was he in charge of one of these groups of 100 or 150 men?

DEFENSE COUNSEL: If the court please, I believe the witness has answered the question. I see no difference between a commander in charge of a column

Tr SA2-10-23-mfh-11

or whether he was a transport leader. It is a play on words.

PROSECUTION: In the reply of the witness as to a transport leader or commander of the column, it shows that he does not understand.

PRESIDENT: Objection overruled.

THE WITNESS (continuing): He could not have been in charge.

Q When you say he could not have been in charge, you mean by that that he could not have been in charge of a group of 100 or 150 prisoners, is that correct?

A Yes.

Q Now how many groups did Sommerfeld have under him?

A You mean groups who were under the command of Sommerfeld?

Q That is right. How many groups of 100 or 150 prisoners were under the command of Sommerfeld?

A About 6 groups.

Q About 6 groups? All right now, who were the group commanders of those six groups?

A I don't know all of them.

Q How many of them do you know?

A I know only about mine because all of us were new people that came from all parts.

Q Were you a group commander?

A No.

Q All right. Who was in charge of the group with which you marched?

A Schmidt.

Q What is his first name?

A I don't know his first name.

Q All right now. And you marched at the end of the column, is that correct?

A I was in the central part of the column.

Q And Graeber was at the end of the column?

A Yes, from the woods on where we had the air attack; that is, from Auhren, when we marched off in the direction of Poding.

Q Who was in command of the group of 100 or 150 men? Who was immediately ahead of you in that column?

A I don't know that either.

Q Who was in command of the group that preceded the group that was immediately ahead of you in that column?

A I don't know. All of them were unknown people. They were new.

Q Who was in command of the group that immediately followed you in the column?

A I don't know, because there was a distance between the groups.

Q How much distance was there?

A About 10 to 15 minutes.

Ten to 15 minutes? In other words, there were 10 to 15 minute intervals between these groups of 100 or 150 prisoners, is that correct?

A Yes.

Q You say that you had received orders that no prisoners were to be shot, is that correct?

A Yes.

Q Did you at any time hear any shooting while you were accompanying that transport?

A No.

Q When did you join the SA, Gottmann?

A I was not a member of the SA.

Q Are you sure about that?

A Yes.

Q You know what is meant by the SA?

A Yes.

PRESIDENT: Just a minute. The court will take a half hour recess.

(Whereupon at 1020 hours court was adjourned.)

A-543-10-A-1-18-1
1088

Camp Dachau, Germany

23 October 1946

MORNING SESSION

(Whereupon at 1030 hours the Court reconvened).

PRESIDENT: The Court will come to order.

PROSECUTION: May it please the Court, let the record show that all the personnel of the Court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Mr. O'Connor, who is absent on basis of the accused; all the accused are present with the exception of Buchmann, Eisenhuet, Oswald, Jekubith, Blaimal, Klebusch, Letzke and Mohrt, who is confirming with a doctor.

The witness is reminded that he is still under oath.

Any spectators in the court room who expect to be called as witnesses in this case will please leave the court room.

PRESIDENT: Continuation of cross-examination.

CROSS-EXAMINATION

QUESTIONS BY PROSECUTION:

Q Gottmann, is your full name Kurt Helmuth Gottmann?

A Yes.

Q And were you born on the 22nd day of July 1917?

(Gottmann - Cross)

A Yes.

Q Gottzman, did you fill out a Fragebogen in Damstau on 25 February 1940?

A Yes.

Q I hand you Prosecution Exhibit No. 76 for identification and ask you to state whether or not that is your signature which appears at the bottom of the last page in pencil?

A Yes.

Q Is that the Fragebogen that you filled out in Damstau on 25 February 1940, being Prosecution Exhibit No. 76 for identification?

A Yes.

Q All right, now. Under item No. 45, I will ask you to read that report, please.

A Why?

Q Well, you just answer my question.

(Whereupon the witness reads in German)

Q All right, Gottzman, doesn't No. 45 say in the first column that you were a member of the SA?

DEFENSE COUNSEL: If the court please, I object to the question. The document speaks for itself.

PROSECUTION: Well, it is in German.

DEFENSE: May it please the court, we can have a translation made and it will be done officially through the interpreter and save the trouble of having the whole document read. I am

PROSECUTION: I am only asking with respect to one item.

DEFENSE: My objection is only with respect to one item.

PRESIDENT: Objection of Mr. Hall is sustained.

QUESTIONS BY PROSECUTION:

Q At that time you stated, did you not, that you were a member of the SA from 1940 up to the present day?

A I cannot remember that.

Q And that the highest office you held in the SA was an SA man?

A I attended SA affairs but I never paid any dues.

Q Well, at the time you filled out this Fragebogen you knew what Item 45 stated, did you not?

A I don't know.

PROSECUTION: No further questions.

PRESIDENT: Redirect.

DEFENSE COUNSEL: No redirect.

PROSECUTION: We will offer at this time, may it please the court, Prosecution Exhibit No. 76, Fragebogen of Kurt Gottman, so much of it as pertains to the identification of the individual, and Item No. 45.

(Whereupon the document referred to was marked Prosecution Exhibit 76 for identification).

PRESIDENT: Any objection on the part of defense?

DEFENSE COUNSEL: No.

PRESIDENT: Subject to objection on the part of any member of the court, Prosecution Exhibit No. 76 will be received by the court in evidence and given such weight as the court seen fit.

(The documents heretofore marked Prosecution Exhibit No. 76 for identification were received in evidence as Prosecution Exhibit No. 76 and is attached hereto and made a part of the record).

PRESIDENT: Questions by members of the court?

TA 543-10-23-ern-4.

QUESTIONS BY LAY MEMBERS:

Q When did you go to Flossenburg, Gottzman?

A I arrived in Flossenburg in March 1945. I don't know the exact date. It could have been March.

Q Were you an SS man on this evacuation or just an ordinary guard?

A I was a member of the SS guard company.

Q Do I understand that you were in the same group with Graeber on this departure from Flossenburg?

A We were loaded together on the train in Flossenburg.

Q Were you with Graeber until the liberation?

A I don't understand.

Q Were you with Graeber until the inmates were released from captivity?

A No.

Q How long were you with Graeber?

A I was with Graeber until we had passed Koding.

Q Did you hear Graeber shooting anybody on the march?

A No, I know nothing about that.

PRESIDENT: Any further questions by members of the court?

LAY MEMBER: You stated that you arrived in Flossenburg in March 1945, is that correct?

A Yes.

Q And in the previous statement you mentioned that you left Flossenburg in March 1945?

A I said it could have been February, March or April.

Q How long were you in Flossenburg?

A We were up in Flossenburg only about three weeks; we had our quarters down in Floss in a hall.

Q Then the year 1945 is correct in both cases, is that correct?

A Yes

PRESIDENT: Do I understand that you arrived in Flossenburg in March 1945?

THE WITNESS: I cannot give you the exact month.

PRESIDENT: But it was in 1945?

THE WITNESS: Yes, it was 1945.

PRESIDENT: Any further questions by members of the court?

LAW MEMBER: Yes, I have one.

QUESTIONS BY LAW MEMBER:

Q. Gottmann, did you actually see Graeber's rifle and baggage destroyed?

A Yes, I saw the barrel of the rifle -- the iron part of it.

Q You don't know whether or not he ever received another rifle in its place?

A No.

LAW MEMBER: No further questions.

PRESIDENT: Any further questions by members of the court?

PRESIDENT: Redirect?

DEFENSE: No.

PRESIDENT: Prosecution?

QUESTIONS BY PROSECUTION:

Q You stated you were with Graeber the entire time up to Moding. By that do you mean that you marched with Graeber?

A From this piece of forest up to Moding?

Q Did you march with Graeber from this piece of forest up to Moding?

A Yes.

Q You were in the same group of 100-150 men with Graeber, is that correct?

A Yes.

Q And you were under Sommerfeld at that time, is that correct?

A Yes.

Q And who was it in command of that group of 100-150 men?

A That was Schmidt.

Q When was it that you were marching in the middle of the column?

A Usually that was through the whole time.

Q And when you say "middle of the column" do you mean the middle of the column of these six groups?

A No. In the middle inside of our column.

Q In the middle of your column? So that you were never more than how many meters away from Graeber?

A The column would be elongated and would shrink together; it all depended on how we were marching.

Q Approximately what was the average distance you were with Graeber?

A It could be 100 meters or 150.

Q So that you were always in sight of Graeber?

A Yes.

Q Now you testified that you did not know whether or not Graeber was armed after his first rifle had been destroyed, is that correct?

A I said that he did not have any weapon.

Q How many days were you with Graeber?

A We rested by day and marched by night.

Q How many 24-hour periods were you with Graeber?

A We were always together.

Q Did you continue with Graeber's column to Dachau?

A No.

Q When did you leave Graeber's column?

A In Roding.

Q And where did you go at that time?

A I was behind the column.

Q What do you mean by "behind the column"?

A On that day in Roding I was in the house. I washed myself and ate breakfast and when I came back to the shelter which we had in a barn the column had already left.

Q That was in the day time, wasn't it?

A Yes, that was day time.

Q And the column only marched by night?

A Up until Roding we marched by night.

Q And after Roding did you follow the course that the column took?

A Yes, I drove down the same route with a vehicle from the army.

Q And did you ever at any time catch up with Graeber's column?

A Yes.

When.

A I don't know that.

Was it one or two days later?

A I don't know whether it was two or three days later.

Do you recall the place where you caught up with it?

A No.

Did you continue from that time on 11th Grauber to Dachau?

A I was not 11th Gr Ber any more from then on.

What was the occasion for your leaving the column after you joined him there when you were riding in the truck?

A The advance troops of the American tanks were already in sight and we had to evacuate the site for that reason.

Isn't it a fact that Grauber and his column reached Dachau?

A Yes I don't know that.

How many guards left the column at the same time you did?

A I don't know how many left all together.

How many guards were in that column?

A I don't know that either.

Q Who was in command of the column the last time you saw it?

A That was Schmidt.

What rank was Schmidt?

A Staff Sergeant.

Q Could you describe this man Schmidt?

A Yes. He had something wrong with his foot.

Q Was that a permanent disability that he had?

A I don't know that, at any rate, he limped.

Q Was he as tall as you are?

A No. He was smaller.

Q Was he blonde or brunette?

A I don't know that either.

Q Well, you saw him for all these days, didn't you?

A I didn't see him all the time, no. I saw him those days when I was together with him, yes.

Q Was he in the Death Head Unit of SS?

A Yes.

Q The same as you were?

A I don't know that. He was from a different unit.

Q What insignia did he wear?

A He had a death's head.

Q And you were the same insignia, did you not?

A Yes. We had a double swastika insignia.

Q Weren't you a member of the ~~Totem Cap~~ Zenkoff Death Head Unit of SS?

A We only signed ourselves SS Guard Battalions.

Q I didn't ask you that.

A In July 1944 we came to that Unit.

Q At any time while you were with that column did you see any dead prisoners except during the air raids?

(Gottesman - Cross)

A No.

Q And you don't know whether Schmidt was blonde or brunette, is that correct?

A I don't recall that.

Q Would you recognize Schmidt if you were to see him again today?

A Yes.

PROSECUTION: No further questions.

PRESIDENT: Redirect?

DEFENSE COUNSEL: A thing, sir.

PRESIDENT: Questions by members of the court? Apparently not.

DEFENSE COUNSEL: Nothing further, sir.

PRESIDENT: The court understands the Defense has finished for this witness.

DEFENSE COUNSEL: Yes sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused ~~and retired from the courtroom~~).

DEFENSE COUNSEL: The Defense calls its next witness, Otto Riese in connection with the accused Drueber, No. 10.

Otto Riese, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

PRESIDENT: Take the witness stand.

PROSECUTION COUNSEL: May it please the court, let the record show that the ~~three~~ accused Pfc. Drueber, No. 10, has returned to the desk and requested permission of the court to talk with the accused Becker, No. 1, for conference with counsel.

PRESIDENT: The request of Colonel Wilson is granted.

TA 543-10-23-ofh-11

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q Please state your name.

A Otto Friese.

Q Your age?

A In December I will be 55.

Q Your nationality?

A German.

Q What was your civilian occupation?

A Innkeeper and farmer.

Q Do you know a man by the name of Graeber?

A Yes.

Q Look into the prisoners' dock and identify him if you can.

A No. 16, (indicating).

DEFENSE COUNSEL: Let the record show the witness has correctly identified the accused, No. 16.

QUESTIONS BY DEFENSE COUNSEL:

Q When did you first meet Graeber approximately?

A That was from the 20th of June 1944.

PRESIDENT: Mr. Hall, I think you better establish the present status of this prisoner.

DEFENSE COUNSEL: You are a prisoner held here at Dachau by the Americans, is that correct?

A. I am just a prisoner, yes.

PRESIDENT: The court at this time sees fit to advise you, Friese, that if you should be asked any question that might tend to incriminate

you you have a right to ask the court to refrain from answering that question. You understand?

A Yes.

PRESIDENT: Proceed, Mr. Hall.

QUESTIONS BY DEFENSE COUNSEL:

Q Now where was it that you first met Grueber?

A That was in Guestoglersdorf in Silesia.

Q Where did you go then after that place?

A After a few days then Grueber was ordered off to Falkenberg.

Q You still remained in this place in Silesia?

A I stayed there for 14 days and I had an accident and ended up in the hospital.

Q Where did you next see Grueber after that?

A I saw him again in November 1944 because I also received orders to go to Falkenberg.

Q Where did you go from Falkenberg?

A I came back to the same city I had left before. I came back to it in February.

Q You mean that same place in Silesia?

A Yes, the same city in Silesia.

Q Where did you next see Graeber?

A Graeber came to the same place and to the same company about one week later.

Q You mean back in Silesia?

A Yes, to Silesia.

Q When did you arrive at Flossenburg?

A I believe it was the 16th of February when I arrived in Flossenburg.

Q What year?

A 1944. No, 1945.

TA 543-10-23-efh-13

Q Who went to Flossenburg with you at about that time? Where was Graeber at that time?

A We had to bring prisoners to Flossenburg and Graeber came along also.

Q Where did Graeber go after arriving with the prisoners?

A Graeber went to Floss.

Q And where did you go?

A I came to barracks in Flossenburg where the guard at the time lived.

Q Up to this period of time, what functions or command had you seen Graeber perform?

A Graeber didn't have any commands.

Q What kind of duties did he perform?

A He often went to the doctor because he was sick in Floss.

Q In general, what duties did he perform in these various places you have mentioned having seen Graeber?

A He only stood guard just like the ordinary guards and in Silesia he had work as a clerk.

Q When did you leave Flossenburg?

A On 10 April we left Flossenburg.

Q What year?

A 1945.

Q By what means did you leave Flossenburg?

A We loaded on the railroad.

Q Whom do you mean by "we"?

A Who was loaded in the railroad? The whole column.

Q Where did you go on the train?

A From Flossenburg to Floss and from Floss

to Welden an through Welden to Schr r en e .

[illegible]: Let the record show th t the ou ed, Secret, F No. ', has returned to the ' .

[illegible] I [illegible]:

Q Where Greeber t th t time?

A Gruber on the tr in; I don't kn in hat c r he s.

Q A ' ting on th tr in [illegible] t Flo , n t th t time Gruber?

A I saw him in Floss after the air attack.

Q Then y u arrived in Schr r [illegible] here s Gruber?

A o t into a house in the early morning and ar ny coffee there. Then the air r i t to and e st yed in th h use an t yo ther consider b'e time.

Q Whe e id y u next go?

A There was a bunker ne r th h use an e stayed in there until around no n, s I remember it. And fter the air raid had ended, I went to the tr in in the ' ntime. An Gruber t yed the e. Then I went back. I said there had been a lot o loss o' life and a lot o. ounded.

(Please Direct)

A And then we stayed there. Around 10 we got a little soup to eat.

Q When did you leave Schwarzenfeld?

A Perhaps it was a quarter to 11 in the forenoon when we got some soup.

Q Approximately what did you leave Schwarzenfeld?

A Around 7 o'clock in the evening.

Q Where was Graeber when you left?

A Graeber was not with our column then.

Q When do the next time that you saw Graeber?

A On the 30th in the course of the forenoon.

DEFENSE COUNSEL: Will the reporter please mark this map a Defense Exhibit for identification.

(Whereupon the reporter marked the map Defense Exhibit No. 31 for identification)

QUESTIONS BY DEFENSE COUNSEL:

Q Please, I show you the Defense Exhibit No. 31 for identification and ask you if you know what that is?

A That is a map of the route we took marching from Schwarzenfeld -- Schwarzenfeld Nuremberg.

Q I hand you this green pencil. Please make an arrow pointing to the spot where you saw Graeber when you left Schwarzenfeld.

A Here, near Fuerth, in this little forest (indicating)

Please make an arrow in green pencil pointing to that spot.

A In this little forest, here is where I saw Graeber.

TA 543-10-23-gfh-1c

Q Approximately when was it that you saw Graeber? What time?

A That must have been around 11 o'clock in the morning.

Q Did anything unusual happen after you saw Graeber?

A Then the air raid started.

Q Describe that air raid.

A It was a terrifying air raid. First of all, we had phosphorous flares, and then we had machine gun bullets, then we were strafed by extra heavy machine guns, and then the incendiary bombs were thrown down, so that everything stood in flames.

Q What was the effect of that air raid?

A Anybody who was injured at all in this never got out of it again. He was lost.

Q What happened after the air raid?

A After the attack we marched into the forest -- we marched ahead.

Q How did you happen to move into the forest?

A We marched into the forest so that we would not be attacked again.

Q Upon whose orders did you march into the forest?

A First, Lieutenant Sommerfeld came and made a commotion.

Q What did he say?

A Some one had made a fire there at the edge of the forest and I had already scolded the man who

(Priese-Direct)

built the fire. It was not a man from our column; it was another man. I had read the man off but he went out into the field and built the fire again.

Q What did Sommerfeld say?

A Sommerfeld scolded Schmidt and accused him of having tolerated that.

Q Who was Schmidt?

A Schmidt was the detail leader of this column.

Q Will you please mark in green pencil approximately the place to which you moved after the air raid with a dot -- a large dot.

A After the attack we went deeper into this little forest.

Q Then what happened?

A And we spent the night there at the edge of the forest.

Q Continue.

A On the following morning I went with Weichmann and we looked for a better spot where we could stay and where we would be safe from air raid attacks.

Q When did the column leave this spot in the forest -- after this last move, I mean?

A Do you mean from this forest or from here?

Q I mean from the place at which you were last located in that area.

A We went from the forest to this forest and there we spent the night at the edge of the forest.

Q Mark a green dot at that point.

(Whereupon the witness did as directed)

Q When did the column start marching again on the route they were supposed to march?

A Around 5 o'clock in the afternoon of the 21st.

Q What was your destination at that time -- your ultimate destination? What town were you headed for finally?

A Then we went in the evening to Fuhrn.

Q What was your final destination that you were headed for?

A Dachau.

Q With this green pencil, mark the route that you took towards Dachau insofar as it appears on that map. Mark it with green pencil so we can see it.

A From Fuhrn to Neuburg?.

Q Just a minute -- make your impression on the paper heavy so we can see it. Mark on the map the route that you took insofar as it shows on that map, all the way.

(Whereupon the witness marked the map)

Q Continue. Now you have marked this map as far as Moding. What happened at Moding? Where did you go?

A At Moding we really left the column with Graeber and then marched on without a column.

Q From this forest near Fuhrn to Moding, where was Graeber during the march?

A In the column.

Q Who was in command of the column during that time?

A Schmidt.

Q Do you know where Schmidt is today?

A I saw him here already.

Q Approximately how long ago did you see him here?

A It must have been a little more than a week -- here in the waiting room.

Q Approximately how many prisoners were in this column with which you were marching?

A Close to 200.

Q What was the approximate length of that column?

A It had a marching length of perhaps 120 meters -- 120 to 150 meters; I don't know exactly.

Q Approximately what position did you march in?

A I went in the middle of the column.

Q Approximately how far did Graeber march from you?

A He marched behind me. I cannot maintain that with certainty, but he was behind me.

Q Approximately how far?

A Usually it was dark. Perhaps 20 to 25 meters away from me.

Q When you first saw Graeber at Floss and when you saw him at Schwarzenfeld, how was he armed?

A At that time he had an Italian rifle.

Q During this march in which you participated with Graeber, how was he armed?

A Starting with Fuhrgn, I know he didn't have any gun at all; he didn't have any weapon.

Q What happened to his weapon?

A During the air raid attack in Kumrin, he was carried up -- in a house in Kumrin.

What happened to the rest of his baggage?

A What was [illegible] burned up.

What orders did you have in connection with prisoners [illegible] on?

A The only people that we in our column were people who had been especially picked because they were strong; the weakest ones stayed behind.

Tell us how you knew about that.

A I knew it in regard to the order of Sommerfeld.

Q What was that order?

A The strong people were supposed to help the weak ones to the next spot, help them be loaded on the vehicles, we had vehicles [illegible] two wheels; and they were supposed to turn them over to the mayor of the next town and receive a receipt for them.

Q How do you know that was supposed to be done?

A I know that because I heard this read in Oflesla before we [illegible] to Sachsa.

Q What is this order that you say you heard from Sommerfeld?

A That is the same order.

What is this order, what was it?

A People who could not keep up the march in did be helped by the strong ones to reach the next village or be loaded on vehicles and taken to the next village and there be turned over to the mayor and get a receipt for them.

Q How do you know that Sommerfeld gave this order?

A He called the guards together in the railroad station in Schwarzenfeld and told them about this order.

Q How far were you from Sommerfeld at that time?

A About 5 meters away.

Q During the time that you saw Graeber on this march, how did he treat the prisoners?

A Graeber treated the prisoners very humanely; he didn't touch them with his little finger even.

DEFENSE COUNSEL: You may cross-examine.

QUESTIONS BY DR. WACKER:

Q Just one question. You just spoke about Sommerfeld. Would you recognize Sommerfeld if you saw him again?

A Yes.

Q Take a look at the accused and see if you can identify him.

A There he is at the window -- No. 47 (indicating).

DEFENSE COUNSEL: Let the record indicate that the witness has correctly identified Sommerfeld as No. 47.

PRESIDENT: Any further questions?

DEFENSE COUNSEL: Nothing.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon at 1200 hours the court adjourned until 1330).

Te 5Ld 10-23-46
pls/1
Floss

Camp Dachau, Germany
23 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Col. Denson and Mr. Pinter who are absent on business of the prosecution; all the members of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswelt, Jakubith, Lipinski and Matzke, who are sick in the hospital, and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

MR. HALL: I offer in evidence Defense Exhibit 31, it being a map used in connection with the case of the accused, Karl Graeber. This overlay was prepared by the accused, Friedrich Becker, in my presence from official U. S. maps.

PRESIDENT: Any objections?

MR. BERKOWITZ: No objections.

PRESIDENT: Subject to objections on the part of any member of the court, Defense Exhibit 31 will be received in evidence and given such weight as the court sees fit. Cross examination, Mr. Berkowitz.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Mr. Freese, you testified you were at Schwarzenfeld during the air raid and that you took shelter from the air raid in the bunker, is that correct?

(Freese, Cross)

A Yes, in Schwarzenfeld..

Q Where were the prisoners during that raid while you were taking shelter in that bunker?

A Most of them jumped out of the wagon and escaped and looked for shelter for themselves.

Q Were there any guards posted along the line of the railroad to guard the prisoners during that raid?

A Yes, there were various guards around. I even saw several of them in the meadow near me, but individual guards only.

Q Were the guards posted along the line of the railroad to prevent the prisoners from getting out of the cars and seeking shelter?

A No.

Q Did any prisoners leave the cars?

A Most all of the prisoners left the cars.

Q Where did they go?

A They looked for shelter on the sides, wherever they could find it. Some of them went into empty cars and some of them in sheds.

Q Did any of them come into the bunker?

A No, that was just a small civilian bunker.

Q Were there all SS men in the bunker?

A No, there were civilian people there, I, Graeber and Eichmann.

Q And there were SS men, too?

A Yes, there were SS.

Q Where did you say you first saw Graeber after you left Schwarzenfeld?

A In this little woods in Fuhren.

Q You didn't see Graeber between Schwarzenfeld and Fuhren?

A No, he was with another column then.

Q Fuhren is about 15 or 18 kilometers from Schwarzenfeld?

A I'd estimate that only about 12.

Q Do you have any knowledge of what Graeber did between Schwarzenfeld and Fuhren?

(Freese-Cross)

A No, I don't know anything about him then, he was with another column.

Q You mean with another group?

A That was another march column.

Q How many men were in that column?

A Where I was?

Q No, where Graeber was.

A I don't know that, I don't know.

Q Then he joined your column, is that correct?

A He was supposed to be sent by Sommerfeld.

Q And he joined your column?

A He was sent to our column along with Weichmann, along with Sommerfeld.

Q And he joined your column?

A Yes.

Q How many men were in your column?

A Prisoners?

Q Yes.

A Around 200 men.

Q How many prisoners were in the entire column?

A You mean the whole transport?

Q I mean the whole column that left Schwarzenfeld under Sommerfeld.

A I don't know that exactly. Nobody ever told me how many men were there.

Q How many groups were there?

A There were supposed to be six marching groups.

Q When you refer to your 200 prisoners do you mean a marching group?

A Yes, a marching column or a marching group.

(Freese-Cross)

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pls/k

Q Who was the non-commissioned officer in charge of your group?

A That was a S/ Sgt. Schmidt.

Q Were there any other sergeants in the guards of that group?

A I don't know how many sergeants there were there at all. There was one whose name was Weichmann, I, and p rhaps two others. I'm not quite sure.

Q What was Graeber's rank?

A He was also a T/Sgt.

Q How many guards were there in that particular group?

A All in all there would be, taken together, about 20. Around 20, I can't tell you the exact number.

Q This marching group separated itself from the rest of the transport, didn't it?

A They weren't really cut off from the rest but the whole column, from the very beginning, was set off at different intervals, in order to avoid danger that might arise in an air attack.

Q Did this group march with the rest of the transport to Kodding?

A You mean my group?

Q Yes.

A Yes, we marched. I believe it was on the 21st.

Q Where did you march?

A First to Fuhrn, then from Fuhrn to Bogen. In B, en we had a break and then we marched to Kodding.

Q Passing Neuenburg?

A First to Neuenburg and then came Kodding.

Q What happened between Fuhrn and Neuenburg?

A We marched at night then.

Q How many prisoners were shot that night in your group?

A Nobody was shot among us then. Nobody who was with us was shot.

(Freese-Cross)

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pls/5

Q Did you hear any shots?

A No, I don't know anything about any shots on that evening.

Q What evening did you hear shots?

A That was later. That was later on when we were in the direction of Rodding there were some shots. We had contact with the enemy. And also in the direction of Cham.

Q How many prisoners were shot to death in the direction of Rodding?

A Nobody who was with us.

Q Did you hear any shots?

A No, only enemy shots.

Q Do you know a Sgt. Walter?

A Walter? No.

Q Were any prisoners shot between Schwarzenfeld and Fuhrn?

A No.

Q At any point between Schwarzenfeld and Rodding did you see any prisoners shot?

A Nobody was ever shot to death in our column.

Q Did you hear of anybody being shot?

A No, nothing like that happened with us.

Q Did you see any corpses?

A I saw a few individual corpses in the ditch running along the highway.

Q How many?

A It may have been 10 to 15 individual corpses lying there but I don't know where that was. That was later.

Q Later than what?

A That must have been after Rodding.

Q Between Rodding and Cham?

A It was in the direction of Cham.

(Frosse-Frosa)

Te 5LS 10-23-46
pl 6/6

Q Were these prisoners' bodies that you saw?

A They were covered up and lying in the ditch along the highway.

Q You mean you saw graves or bodies?

A I didn't see any graves, no.

Q What were they covered with?

A With their own coats.

Q Were they prisoners' coats?

A Yes.

Q Were you able to observe the condition of these corpses?

A No, I couldn't do that. I didn't take any trouble to convince myself about them.

Q Did you see any corpses in the neighborhood of Neuenburg?

A No, it was night then.

Q Who gave you the orders concerning the treatment of prisoners on this march?

A In regard the the treatment of prisoners?

Q Yes.

A We didn't have any orders except the one from Sommerfeld which read that who couldn't continue the march should be helped, either by means of vehicles or by stronger prisoners, to the nearest town.

Q What was to be done with them at the nearest town?

A They should turn these people over to the mayor, and get a receipt for delivery.

Q Were all the prisoners able to continue that march?

A All the people who were with us had been especially picked out because they were strong.

Q Will you answer my question?

A Yes.

Q Did you turn over anyone to the burgomeister along the route of march?

(Freese-Cross)

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pls/7

A I don't know that. Schmidt should really know about that, if any of his men were lost.

Q Did you see any men turned over?

A No.

Q Did you see any loaded into wagons?

A No. that was during the transport from Silesia to Flossenburg we had to load some on wagons then, but not on this march.

Q Was Greeber on this march with you?

A Yes.

Q Were your orders the same on that march as this?

A Yes.

Q Was the treatment of prisoners the same on that march as on this march?

A Yes, except it was usually bad. We couldn't do anything about it. We didn't have anything and sometimes we couldn't get any of our food.

Q Where was that?

A In Reading. Greeber and I went to ask for food but we couldn't get any because we had already made contact with the enemy and there was no food to be had.

Q You were with this column until it reached Dachau?

A No, I didn't reach Dachau with the column. I stayed with the column until Reading and then I went on with Greeber.

Q Did you ever locate the column after you had left Reading?

A No. Once I met them by accident.

Q Where did you meet them?

A That was just before the entire columns were amalgamated.

Q Where?

A I don't know the name of this place.

(Freese-Cross)

Q Was it in the neighborhood of Straubing?

A Is Straubing located in front of Loessing?

PRESIDENT: The court suggests he be given an opportunity to see the map.

CROSS-EXAMINATION: That wouldn't help. The map goes as far as Bodding.

A It was in front of Landshut.

Q Were the men of your group combined with the rest of the transport at that point?

A All the marching blocks were gathered together on a plowed field and there they were all brought together.

Q Who was in charge of them there?

A I don't know.

Q Did you see Graeber carrying a pistol?

A No, he never had any.

Q At no time on this transport did he carry a pistol?

A He never had a pistol.

Q What did he have?

A Starting with the 20th of April he didn't have any gun at all.

Q When did you last see Graeber on the transport?

A When we were taken captive together.

Q You are pretty good friends?

A Not exactly good friends but we were comrades of the war. We came through the war together.

Q When did you start with Graeber?

A When we were first together in the detail.

Q When was that?

A It was the 26th of July in Wuestegiersdorf in Silesia. He was only there three or four days because he had something wrong with his right hand.

(Freese-Cross)

Ta Sub 10-23-46
pls/s

He couldn't safety his guns and load his guns correctly and he begged the captain to send him to another post and the captain sent him to Falkenberg.

Q You were together all the time until you were taken prisoners together?

A In November I also went to Falkenberg and from that time on I knew him well

Q No further questions.

REDIRECT EXAMINATION

QUESTIONS BY MR. WALL:

Q What did you say Graeber's duties were at Falkenberg?

A He had nothing else but to make reports about the guard.

QUESTIONS BY DR. WACKER:

Q You said earlier that you had seen corpses lying along the road?

A Yes.

Q Do you know from what prisoners' column these corpses came?

A No.

Q Did you see Boegel standing?

A I was looking for him myself, I and Graeber. No, it was Berger.

Q Berger belonged to your platoon up until Falkenberg, did he not?

A I never saw Boegel.

PRESIDENT: Further redirect?

MR. WALL: No.

PRESIDENT: Recross?

MR. PERLOWITZ: Nothing further.

PRESIDENT: Questions by the court?

EXAMINATION BY THE COURT

QUESTIONS BY LT. COL. BURTON:

Q Was Falkenberg an outcamp of Flossenburg?

(Recess-Cross, court)

MR.BERKOWITZ: It belongs to Gross Rosen. Falkenberg belongs to Silesia. Silesia had these two outside details, Wuestegieredorf and Falkenberg.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q You stated that the only shots you heard on this march were the shots from the enemy, is that correct?

A I heard shots on the march. It was a rapid fire so it must have been from the enemy. I can't think any other explanation.

Q Did the Germans reply to that fire?

A No. I can't tell you for sure. It all took place too far away. I don't know whether our troops were there or not.

Q How do you know it was enemy fire?

A I only know it was rapid fire. It was certainly enemy rapid fire.

Q Couldn't it have been rapid fire from your own troops?

A No, it could have never come from the troops with which we were marching because we never had any contact with the enemy like that.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Did I understand you to say that you recognised the commander of your own group, this man, Schmidt, outside of the courtroom?

A I recognised him here in the waiting room?

Q Would you know his first name if you were to hear it?

A His first name is Josef, Josef Schmidt.

Q Who commanded your whole column from the time it left Flossenburg until it reached Sahmersenfeld?

A That was Major Berger.

Q From whom did Sommerfeld receive his orders which you repeated to us, if you know?

A I don't know.

PRESIDENT: Any further questions by members of the court?

(Recess, Court)

QUESTIONS BY LAN KUBER:

Q Do you know whether Graeber did any shooting on that march?

A No, he had no part of anything. Anyway, Graeber didn't have any gun, he couldn't even shoot.

Q He did have a gun when he started off on the march, did he not?

A Starting with the 20th he didn't have any gun at all.

Q Did he do any shooting before the 20th?

A No.

QUESTIONS BY LT. COL. SEELY:

Q Why did you and Graeber leave the column?

A Because we weren't capable of marching so well and we picked out a column where they had horse and wagons and we could get along better there.

Q Did you do that of your own volition or did you get permission for that?

A Schmidt gave me permission to do that. He said we could go and ride along with the wagons. We weren't capable of marching anymore. My feet were covered with blisters and the same with Graeber.

Q What did you have on the wagons?

A Some of them had hay and straw and I saw knapsacks on others and I sat on top of them. Only one man was allowed on a wagon. Graeber was sitting on a wagon further behind me.

Q You didn't have any sick prisoners on the wagon?

A No, there were no prisoners there.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SEELY:

Q What was the nationality of the people on your march?

A I don't know. They were all strange to me.

Q Did you ever know of an Eric Rosenthal?

A No, I don't know him

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pls/12

Q No further questions.

PRESIDENT: Any further questions by members of the court? Apparently not. Redirect?

MR. HALL: No.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKWITZ:

Q Do you know whether these prisoners who went along with you were, in many cases, the same that came from Gross Rosen?

MR. HALL: I object to the question as immaterial and outside of the scope of these charges.

PRESIDENT: Read the question.

(Thereupon the reporter read the last question.)

PRESIDENT: Objection sustained.

Q Did you inquire into the nationality of these prisoners?

A No.

Q Did you recognize any of these prisoners as being the same prisoners who came from Gross Rosen?

MR. HALL: Objection to the question, same objection as previously reported.

PRESIDENT: Mr. Prosecutor, the court would like to know whether or not you have any definite proof that Gross Rosen was an outcamp of Flossenburg. The court might add that the court has had evidence to that effect and evidence to the contrary.

MR. BERKWITZ: Gross Rosen is not an outcamp. The purpose of the question is to show that this man knew these prisoners and, therefore, what their nationality was.

PRESIDENT: Objection of the defense counsel, Mr. Hall, is sustained.

(Freese-Recross)

pls/13

Q From the time you left Flossenburg until the time you arrived at R[illegible]dling, were any of the prisoners shot who were attempting to escape?

A No.

Q No further questions.

PRESIDENT: Defense?

MR. WALL: Nothing further.

PRESIDENT: Any further questions by members of the court? The court understands that the defense is finished with this witness?

MR. WALL: Yes, sir.

PRESIDENT: The witness is excused. (Whereupon the witness withdrew.) The court will take a short recess in place.

(Whereupon the court took a recess in place.)

PRESIDENT: The court will come to order.

MR. WALL: The defense calls as its next witness the accused, Karl Graeber.

PRESIDENT: Graeber, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED: Yes.

KARL GRAEBER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. WALL:

Q Please state your name.

A Karl Graeber.

Q How old are you?

A 51.

Q What were you in civilian life, your civilian occupation?

Ta [illegible]-10-43-L6
pls/13

A I was secretary of the community and a clerk in the office after my apprenticeship. And from 1920 to 1928 I was mayor of a small suburb of Berlin.

Q When did you become a member of the Party?

A 15th of May 1927 I joined the Party. That is, 1937.

Q Please explain the circumstances under which you became a member of the Party.

A Starting in 1930 onwards I was a member of the Steel Helmet organisation. That was an organization of the front soldiers. In 1933 the change of power in Ger any came about. This Steel Helmet organisation, this organization of front soldiers, was taken into the ranks of the SA, and since I was more than 40 years old I was awarded a reserve membership in the SA. And in 1937 all these people from the Steel Helmet organization and the SA reserves were taken up in the Party organization.

Q What duties did you have in the SA?

A All I had to do was to make a roll call every month and I had to fall in at big processions and other than that I didn't have any duties to perform.

Q Tell us about your education, Graeber.

A 1888, 22nd of February, I was born.

Q Just tell us about your education.

A From my sixth to my fourteenth year I attended grammar school, and then, as I already mentioned, I became an apprentice of the community administration, then I became an office assistant and secretary of the community.

Q In what year was it you became an apprentice of the community administration?

A 1906.

Q Continue.

A Then I was an assistant in the office, secretary of the com-unity. In the meantime I passed an examination of teaching shorthand.

Q Are you married, Graeber?

A Yes, since the 25th of October 1919.

Q Just answer my question, please.

A Yes.

Q Do you have any children?

A Three.

Q What are their ages?

A 11, 23, and 26, respectively.

Q Did you have any military service in the first war?

A Yes.

Q Please describe that briefly.

A In October 1913 I was taken in as a reserve in the Thoren Artillery. I was drafted and went through the entire First World War with this regiment.

Q What campaigns did you participate in?

A I first took part in the Eastern Campaign, then in the Western and then in Galicia. I took part in the big battles. I took part in the Battle of Tannenberg, in the Battle of the Masurian Lakes and in the battle before Warsaw.

Q Were you wounded at any time in the First World War?

A And then I took part in the battle on the Somme River in the West and in the attack battles in front of Verdun.

Q That is enough of that. Please describe the circumstances under which you became associated with the SS.

Ta 5L6 10-23-46
pls/15

A On the 24th of February 194L I was taken in, drafted, to the 40th Emergency Militia of the Army.

Q Continue.

A On the 26th of June 194L I was ordered to report to the SS Guard Battalion in Gross Rosen and I was accepted permanently into the ranks of this guard battalion on the 1st of September 194L.

Q What was your highest rank in the First World War?

A My highest rank in the First World War was Technical Sergeant.

Q When you were drafted in the Wehrmacht in this war, what is the rank you were given?

A I was redrafted again as Technical Sergeant.

Q Was your entry into the SS voluntary or what?

A No. In June 194L people from all the various emergency militias were drafted into the SS.

Q What rank did you receive when you were taken into the SS?

A I became a Technical Sergeant, the same rank as I mentioned before.

Q When did you arrive at Flossenburg?

A The 27th of February 1945 we arrived at Flossenburg.

Q When did you leave Flossenburg?

A On the 16th of April 1945.

Q Approximately what time of day did you leave?

A We marched out of the camp around 6:00 or 6:30 in the morning, went over to the railroad station. There we were loaded up and drove away with the railroad at 8:00 o'clock.

Q What was the last town that the railroad train took you to.

A Schwarzenfeld.

(Grecher-Direct)

Ta 5140 10-23-46
pls/16

Q What were your duties on that train?

A I didn't have any kind of duties on the train at all.

Q What did you do?

A We were about 1600 or 1700 prisoners and there were about 200 guards assigned to this number of prisoners, and in each railroad car there were 40 to 45 prisoners quartered and three guards to each car. I must add here I'd like to make the remark that about 40 per cent of the rest of the guard were non-commissioned officers.

Q How were you armed at that time on this train ride?

A An Italian rifle.

Q What duties had you been performing prior to this evacuation?

A I didn't have any duties before the evacuation march. I would like to add something here. We arrived in Flossenburg the 27th of February and then, after we had turned over the prisoners, we marched into the community of Floss. Floss is about six kilometers distant from Flossenburg. Here in Floss were quartered the 8th Company and our Company, No. 6. They were the ones who had come from Gross Rosen with the transports and they were quartered in three separate barracks. Because I was only capable of doing duty indoors, I had to take care of the bachelor quarters of the Catholic Refuge Center there.

Q Back to Schwarzenfeld - about when did you arrive at Schwarzenfeld?

A 14th of April, 6:00o'clock in the morning.

Describe what happened at Schwarzenfeld while you were there.

A After the train arrived, toward 6:00 o'clock, Capt. Bablo split up the guards and posted guards and gave the rest of the guards who weren't on duty permission to look for quarters themselves and

(Graeber-Direct)

stay in the quarters during the day. I went with five or six others, Freese and Weichman, about 500 or 600 meters away from the railroad station. We went into a yard there, a farmer's house which was standing off all by itself, and we stayed there until toward 5:00 o'clock in the afternoon.

Q Continue.

A Around 5:00 o'clock we went back to the railroad station again. In the meantime Freese had already been to the railroad station in the daytime. When we got back to the railroad station we heard that the prisoners who were capable of marching were to be picked out at the railroad station and were to be set off marching by foot in the direction of Dachau.

Q When did you leave Schwerzenfeld?

A The first column left toward 7:00 o'clock in the evening. We were split up into six different columns. Each column consisting of 150 to 200 men and the first of them columns shoved off toward 7:00 o'clock and the rest of them shoved off at intervals of 15 minutes apiece.

Q 7:00 o'clock, morning or evening?

A In the evening.

Q With which column did you leave?

A I marched with 1st Lt. Sommerfeld behind the last column. It was around 8:30. In the meantime, complete darkness had fallen.

Q Who was in command of that column that you were with?

A We didn't march along with any column but we marched behind the last column.

(Graeber-Direct)

Q How far behind the last column?

A About 100 meters.

Q When you say you marched with Lt. Sommerfeld, what do you mean "with him"?

A The two of us brought up the rear.

Q What date did you leave Schwarzenfeld with this colum and Lt. Sommerfeld?

A The 19th of April 1945.

Q Now, Graeber, you have mentioned that you were marching approximately 100 meters at the rear of the last column with Lt. Sommerfeld.

A Yes.

Q What was the date of that particular incident?

A On the 19th of April 1945.

Q How long did you remain with Sommerfeld?

A Until the last column made a break, about 10 or 12 kilometers away from Schwarzenfeld, and to be specific, it was on the left side of the street in a small forest.

Q Approximately at what hour on the 19th of April 194 did you leave Sommerfeld and his column?

A I stayed with the column during the night.

Q When did you leave Sommerfeld and the group he had been following?

A Between 10 and 11 o'clock on the following morning, that is, the 20th of April 1945.

Q With whom did you leave at that time?

A At that time 1st Lt. Sommerfeld gave me and Sgt. Weichmann the order to join a column which was on the right side of the street, 500 meters up ahead.

Q Who was in command of that column you were to join?

A A T/Sgt Schmidt.

Q Approximately when was the last time you saw this Schmidt?

A Schmidt? I saw him one week ago in the presence of my defense counsel here.

Q Do you recall his first name?

A Josef Schmidt.

Q I show you Defense Exhibit 31 and ask if you have seen that before?

A Yes, that is a sketch of the map of the route which we marched.

Q With pen and ink please trace the route that you took from Schwarzenfeld.

A Up until this point?

Q Trace that up until the point you went.

A Here is where we spent the first night.

Q Put the figure "1" in pen and ink at the spot where you spent the first night.

(Thereupon the accused made a figure "1" on Defense Exhibit No. 31)

Q Can you make that figure a little larger, please. All right. Approximately where did you meet Schmidt?

A Here.

Q Let the record show that the witness has made a large dot in ink at the same area indicated by the previous two witnesses in brown and green. After you met Schmidt, what happened?

A I had scarcely been with the column a half hour before we had a severe strafing attack.

Q Please describe that.

A There were enemy troops in the area around us and they had built fires and the airplanes saw the fires and attacked our column between 11:00 and 11:30.

(Graeber-Direct)

Ta 540 10-23-46
pls/20

Q What kind of troops were in the area?

A They were German Army troops, they were individual soldiers.

Q Were they enemy troops?

A No, they weren't, they were Germans.

Q What happened then?

A The strafing planes attacked us. They dived down on us and shot at us with phosphorous bullets, incendiary bullets, and with machine guns and especially heavy machine guns, and at the end they threw off various incendiary bombs so that the whole forest which was around us stood in flames.

Q What was the effect of that attack?

A The result was that most of the baggage of the soldiers and the baggage of various guards, including my Italian rifle, were all burned up. All our attempts to rescue what we could were fruitless. We especially wanted to rescue our rifles but we couldn't.

Q What happened after the attack?

A Half an hour after the attack had ended 1st Lt. Sommerfeld came and severely reproached Sgt. Schmidt by saying he had apparently been too quick about it and not paid attention and he had allowed these people to build fires. But I would like to mention that Schmidt definitely didn't have any guilt in that.

Q Continue. What did Sommerfeld say?

A Sommerfeld made Schmidt severe remonstrances and said Schmidt should lead the column deeper into the forest, which Schmidt did, and we stayed in the forest about 800 meters inside the forest, until evening.

Q What night was that?

A Up until the evening of the 20th of April.

Q When did you leave the forest and continue the march?

A In the meantime I went into the town of Fuhrn in the afternoon and got food for the troops and then, on the evening of the 21th of

(Graeber-Direct)

Ts EAC 10-23-46
pls/20

April, we changed the sides of the streets. We went over to the other side of the street and we spent the night very close to the street on the edge of the forest.

Q When did you leave the forest and continue the march?

A In the morning of the 21st of April. Schmidt ordered Welchman and Freese to find another camp location. 600 or 700 meters deeper in the forest these people found a gorge in the forest and we spent the rest of the day there. The 21st of April, toward 5 o'clock in the afternoon we left the position of camp. It was raining very badly and we went into the town of Fuhrken.

Q Who do you mean "we"?

A The entire prisoners' column and the guards.

Q Continue.

A There the prisoners were brought into a barn and given food again.

PRESIDENT: The court will take a half hour's recess.

(Thereupon the court, at 1500 hours, recessed.)

Camp Dachau, Germany
23 October 1946

AFTERNOON SESSION (Continued)

(Whereupon the court reconvened at 1540 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show all members of the court are present; all the personnel of the prosecution are present except Mr. Denson and Mr. Hinter, who are absent on business for the prosecution; all the personnel of the defense are present except Colonel Wilson, who is absent on business of the accused; all accused are present except Buddensieg, Olschewski, Oswald, Jaffurth, Lipinski, Matzke, and Eisbusch, who are sick in the hospital and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witness in this case will they please leave the court room.

PRESIDENT: Continuation of direct examination, Mr. Hall.

KARL GRAEBER, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION (Continued)

QUESTIONS BY MR. HALL:

Q Mr. Graeber, how many nights did you spend in this forest in the vicinity of Fuhrn?

A Altogether two nights, the first night I was there with Sommerfeld and the second night with the column.

Q With whose column the second night?

A The column of Schmidt.

Q Do you recall the date of this second night with

Schmidt's column?

A On the night of the 20th or 21st of April, 1945.

Q What was the date of the first night you spent in the forest with Amorfeld?

A It was from 11:00 o'clock in the evening on the 19th of April until the morning of the 20th of April.

Q Of what year?

A 1945.

MR. HALL: Now will you please place a figure 2 in pen and ink on Defense Exhibit No. 21, indicating the place where you spent the two nights. Make it large enough so we can see it.

MR. KUBUSCHOK: That is where we spent the first night (indicating) and that is where we spent the second night (indicating.)

QUESTION BY MR. HALL (Continued):

Q When, then, did this column leave the forest?

A The column left the forest on the 21st of April at 5:00 o'clock in the afternoon. We moved to Fuhrn.

Q Where did you spend the night on the 21st of April, 1945?

A We were marching during the night from the 21st of April to the 22nd of April. The 22nd of April was a Sunday, and from about 3:00 until 11:00 o'clock in the evening of the 21st of April we were in Neuhaus.

Q When did you leave Neuhaus?

A We left Neuhaus around 1:00 o'clock at night.

Q What was that date?

A The 22nd of April, 1945.

Q Where did you go then?

A We were marching in the direction of Roding up to Regen I think was the name. That is about 12 kilometers away.

Q What time did you arrive in Regen?

A It was 4:00 o'clock in the morning of the 22nd of April.

(Recess-Direct) 5548

Q Then where did you go?

A It was Saturday morning when we arrived there and we spent all day long in Regen.

Q When did you leave Regen.

A We left Regen on the 22nd of April when darkness started to fall. That could have been about 8:00, 8:30 in the evening.

Q Where did you go then.

A Then we marched to Roding.

Q When did you arrive in Roding.

A We arrived in Roding on Sunday, the 23rd of April, about 4:00 o'clock in the morning.

MR. HALL: Now with pen and ink please trace the route on this map that you took from the point where the figure 1 appears. Be careful that you do not obliterate any other lines that might be on the map. Do not mark over any other lines that are on the map.

ACCUSED GRABER: Well I have to draw the over passes.

MR. HALL: Trace next to that if you are going in the same direction.

ACCUSED GRABER: I have to (indicating with pen and ink.)

QUESTIONS BY MR. HALL (Continued):

Q Now from the time of the air raid until the time you arrived in Roding how were you armed?

A I wasn't armed at all.

Q Who was in command of your group from the time you joined the column in the forest through the time you arrived at Roding?

(Graeber-direct)

A Technical Sergeant Schmidt.

Q What happened after you arrived at Roding?

A After we arrived at Roding around 4:00 o'clock in the morning we went to sleep in a barn until about 8:00 o'clock and around 8:00 o'clock I went to the district hall with Freege in order to pick up some rations, some food stuff for the prisoners. We saw Major Berger at the district hall and I told him my column had arrived from Roding. He was glad we had gotten there with the prisoners and was willing to secure some rations for us and for the prisoners. But in the meantime the mayor or the district chief, I don't know exactly who it was, came around and said that the columns had to leave Roding immediately since the American armoured troops were approaching and part of them were pretty close to the town. Berger gave us orders to tell the detail leader that he was to march on in the direction of Straubing. He, that is, Berger would see to it that food was brought to our place.

Q What date was it that you had this meeting with Berger?

A That was on Monday, the 23rd of April around 8:00 o'clock in the morning. Freege and I went back and transmitted the order of Berger to Technical Sergeant Schmidt. Schmidt woke the column up and gave us permission, that is, Reichsmann Freege and I were allowed to go ahead , that is, to be in advance of the column. He would follow us with the column of prisoners.

Q Then what happened?

A We then continued our march and from this point on the three of us were marching without the prisoners and didn't see them all day long, that is, didn't see them on the 23rd of

April.

Q From this point on what do you mean by "this point"?

A From the moment on when Schmidt gave us permission to go ahead.

Q What happened when you went ahead?

A We then proceeded and Prengo joined a Hungarian column. I think he started off in Aschach, that was a small town in that vicinity, I think that was the name, I'm not sure. Weichmann, I and another sergeant whose name I don't know, he was from Rumania, moved on. Weichmann spent the night in a place about ten kilometers before we reached Straubing, and Weichmann and I continued our way in the direction of Straubing and about five kilometers before we reached Straubing we spent the night there in a village.

Q What was the date of this night you spent five kilometers before Straubing?

A The middle of the night, from the 23rd of April to the 24th of April, 1945.

Q What happened then?

A The next morning the sergeant and I continued our way and went through Straubing until we met a large prisoner column about fifteen or sixteen kilometers outside of Straubing in the direction of Landshut.

Q What was the date that you met this large prisoner column in the direction of Landshut?

A It was on Tuesday, the 24th of April, around 3:00 o'clock in the afternoon.

Q What happened then?

A I asked what kind of column this was and I was told that SS Lieutenant Colonel Koegel was in charge of this column. I immediately reported to Koegel that I had been separated from my column but I didn't know Koegel personally but he was the highest ranking officer. Lieutenant Colonel Koegel told us that we should get something to eat and then continue the march together with this column. Since my feet were injured I went to see a doctor, and I heard it was Lieutenant Colonel Fischer, and he ordered that my feet be bandaged and told me to continue the way in the supply wagon.

Q When was that?

A It was in the afternoon of the 24th of April.

Q What happened then?

A The large prisoner's column then continued its march in the dark when darkness started to fall in the direction of Landshut.

Q On what date?

A Around 8:00 o'clock in the evening of the 24th of April. We spent the night there.

Q You spent the night where?

A In this place where the column was, I don't know the name of the place.

Q Do you mean this place near Landshut?

A Between Straubing and Landshut.

Q When did you leave this place?

A On the following morning, that is on the 25th of April, 1945. I'd like to add that in the evening of the 24th of April I met Schmidt, Froese, and Weichmann again and Schmidt told me that particular evening that he had turned over his complete column to

Koegel.

Q When was it then that you left this spot near Landshut?

A Around 8:00 o'clock in the morning, the 25th of April, between 7:00 and 8:00 o'clock in the morning, together with a horse drawn carriage of the supply column.

Q What happened then on the 25th?

A We were driving in the direction of Landshut and around 1 o'clock made a break, that is the supply column which we belonged to, and then continued our march until we reached a place shortly in front of Landshut.

Q When was it you reached that place?

A Toward evening around 7 o'clock or 7:30.

Q What date?

A April 25, 1945.

Q What place was it you made a break around 1 o'clock on the 25th of April, 1945?

A I don't know, there were several houses, a small village.

Q What town was this small place near?

A It was about fifteen to twenty kilometers outside of Landshut, that is, in front of Landshut.

Q Where did you go after that break?

A We went in the direction of Landshut and spent the night two kilometers outside of Landshut.

Q What night was this?

A It was the night of April 25, 1945.

Q What happened then?

A I then continued our march the next morning around seven o'clock up to a point about ten kilometers in front of Freising by way of Landshut, Moosburg.

Q What was this date?

A The 26th of April, 1945. We spent the night there in a small village then continued our way in the direction of Munich on the next morning, that is, on the 27th of April, 1945, between 6:00 and 7:00 o'clock in the morning. We went by way of Freising in the direction of Munich and then turned off to Dachau. We arrived in Dachau between 3:00 and 4:00 o'clock in the evening.

Q What day?

A We arrived there on the 27th of April, 1945, between 3:00 and 4:00 o'clock in the evening.

Q You spoke of being with the horse drawn supply column after having this treatment from Colonel Fischer.

A Yes, that's right.

Q During the time you were with the horse drawn column where was the column of foot prisoners?

A We didn't see them anymore from Tuesday evening on, that is, since the 24th of April. At that time the column marched off and we didn't see them any more.

Q During the time you were with the horse drawn supply column how were you armed?

A Not at all.

Q Who was in command of this horse drawn supply column?

A I don't know. I think that was some warrant officer, something like that, I really don't know.

Q I call your attention to the testimony of the witness Rosenthal. He stated among other things that you shot two or three Polish Jews in the vicinity of fifteen kilometers from Schwartzenfeld. What do you have to say about that?

A I never saw the prosecution witness Rosenthal before he appeared in court and I never was confronted by him either. I personally don't know him so I can't have any judgment about him. When Giesalman took the stand in his own behalf he said the witness Rosenthal was full of lies and completely without any social feelings.

Q What do you have to say about his charges that you shot two or three Polish Jews in the vicinity of fifteen kilometers from Schwartzenfeld?

A That is a pure prevarication. He also mentioned that I shot with a pistol and never in all my life had I a pistol in my hand. Throughout this entire war from the day of my induction on I never fired a single shot with the exception of ten shots which I fired in the training grounds in Templin.

Q Do you confirm or deny his charges that you shot two or three Polish Jews?

A Well that is out of the question if I tell you I never fired a shot.

Q Please answer my question directly. Do you confirm or deny that you shot two or three Polish Jews as Rosenthal said?

A I deny it very definitely.

Q Rosenthal also said that you were in charge of the guards. What do you have to say about that?

A I never was a detail leader, I never was a commando of a marching group.

Q The witness Rosenthal said you ordered guards to shoot prisoners who could not proceed. What do you have to say about that? Do you confirm or deny the charge?

A I deny that. I never gave any orders.

Q You have testified that from the time of the air raid in the forest near Fuhrn throughout the balance of this trip you had no weapon because yours was burned up in the raid.

A Yes.

Q There exists the obvious possibility that you could have borrowed a weapon or found one. What do you have to say about that?

A No, that is not true either. I didn't have a weapon in my hand. The only man in the column who was in the possession of a weapon was Technical Sergeant Schmidt, and he never gave his weapon to anyone.

MR. HALL: I must challenge the translation "weapon". Did the witness say weapon?

(Thereupon the interpreter repeated the answer as follows:

"A I never had any weapon in my hand. The only man in the column who was in possession of a pistol was Technical Sergeant Schmidt, and he never gave his pistol to anyone."

MR. HALL: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q Graeber, you just stated that you never fired a single shot during the war with the exception of ten shots in practice, is that correct?

A Yes, that is correct.

Q Is it not a fact that you personally shot fifty prisoners on a transport between Gross Rosen and Flossenburg?

MR. HALL: Just a moment. I object to that question. There is no testimony that he was even on a transport between Gross Rosen and Flossenburg or that those facts are covered in this charge.

PRESIDENT: The objection is sustained.

QUESTIONS BY MR. BERKOWITZ:

Q Calling your attention to Defense Exhibit No. 31 I point to the lines on the map from Schwarzenfeld to the first mark you indicated. You testified, did you not, that was the stretch which you covered with Sommerfeld behind the column?

A Yes.

Q Were you armed at that time?

A Yes, with an Italian rifle.

Q Will you describe that rifle? How long was it?

A Well, an Italian rifle, an ordinary rifle. About that long (indicating).

MR. BERKOWITZ: May the record show the witness indicated that the weapon reached to the neighborhood of his chest from the ground.

PRESIDENT: Mr. Berkowitz, the court feels it must clarify that identification. That would depend upon the height of the individual.

MR. BERKOWITZ: Will you indicate again?

(Whereupon the witness did as instructed.)

MR. BERKOWITZ: May the record show the witness indicated the rifle was about four and a half feet long.

QUESTIONS BY MR. BERKOWITZ:

Q At the first spot you indicated on the map you spent the

night with a guard of the column, did you not?

A With a guard of the last column, Sommerfeld, yes.

Q As you were walking with Sommerfeld to this first point on the map (indicating) what were you and Sommerfeld doing?

A Well we were at the end of the column.

Q Did you have any conversation with him at that time?

A Of course we had some conversation.

Q Did you get any instructions from him at that time?

A No.

Q What was the nature of your conversation?

A We were talking about the march and the war in general, that the war was going to be finished soon. It was very personal conversation.

Q Did Sommerfeld detail you to a column that night?

A No.

Q Did he detail you to a column the next morning?

A Yes.

Q What did he tell you at that time?

A There were too many guards with the last column so he sent Staff Sergeant Weichsmann and myself to a column where there were less guards.

Q Did he give you any instructions at that time?

A No.

Q What did you do when you joined this second column?

A We reported there and said that we had been detailed to this column.

Q To whom did you report?

A To Technical Sergeant Schmidt.

Q Was it not a fact that when you joined this column you

called the SS men together and transmitted the order of Sommerfeld?

A In the first place I didn't receive any instructions from Sommerfeld and in the second place I never transmitted any instructions. I never called the SS guards together.

Q Is it not a fact that right after you joined that particular group shooting of prisoners began?

A No, there was no reason to shoot at the prisoners.

Q Were you armed between the first night you spent with Sommerfeld and the second night which you spent at this point with the group?

A I was armed during the first night which I spent with Sommerfeld and on the following day on the 20th of April I went over to Schmidt, and there my rifle and my whole baggage were destroyed by fire during a heavy attack of low flying planes around 11 o'clock.

Q Around 11 o'clock in the morning?

A Yes.

Q And you remained at that spot over night?

A No, we spent the night at the point where I marked the figure 2 (indicating).

Q How far was the point marked figure 2 from the point where you joined the group to which you were assigned?

A From the point where I met the column we first marched deeper into the woods about six or seven hundred meters after the attack of low flying planes on orders of Sommerfeld and towards evening we then went back to the other side of the road and there at the edge of the woods next to the road we spent the night.

Q What does this point going up to the top of the map and

then coming back indicate? (Indicating)

A The next morning Froege and Weichman were looking for a new place to camp which was further distant from the road in a gorge. That was the place here (indicating). That is where we spent the 23rd of April from the morning until 5 o'clock in the afternoon and then around 5 o'clock in the afternoon we marched off in the direction of Fuhrn.

Q When you were detailed to this transport and given a weapon what were your instructions?

A What kind of weapon?

Q The weapon you were carrying.

A That was the weapon I was given in Gross Rosen. I wasn't given this weapon at that place.

Q What instructions were you given when you left Flossenburg?

A We didn't receive any instructions in Flossenburg, we were lined up next to the gate and the prisoners moved out of camp in groups of two hundred men each and there was an interval between the groups and we then joined those groups, four or five men on each side of the group.

Q Please answer my question.

A Yes.

Q What instructions did you receive when you left Flossenburg?

A I didn't receive any instructions whatsoever. I didn't hear any.

Q Do you know why you were carrying a rifle?

A I knew that, of course, as a soldier.

(Graeber-cross)

Q What were you carrying it for?

A I was armed with a rifle in order to use it in case someone should escape.

Q Did any of the prisoners escape from the column from Flossenburg to Roding?

A No.

Q Were any prisoners shot by SS men between Schwarzenfeld and Roding?

A I don't know that but nobody from our group was shot.

Q Did any of your prisoners die?

A No.

Q Did you not in the course of previous interrogation state that some five or six prisoners died a natural death?

A No, I never said that. I only said that I saw five or six corpses lying at the edge of the road outside of Straubing. They were the first and only dead bodies I saw with the exception of those killed during air attacks.

Q You saw no dead bodies between Schwarzenfeld and Roding?

A No, we were marching during the night and it was pitch dark.

Q Did you hear any shots?

A No, there was no reason whatsoever to kill anybody.

Q What were your instructions concerning prisoners who were too weak to continue the march?

A I didn't hear the order which was given to the guards by Sommerfeld personally but later on I was told about that order by Freese and Reichmannand also by Sommerfeld.

(Graeber-cross)

Q What were you told?

A They said that no prisoner was to be hung, but as the witness, Gottman and the witness, Frenge already testified this morning, the prisoners who would get weak during the march were to be supported and helped by stronger and healthier ones and were to be taken to the next village.

Q Did you see any prisoners get weak on the march?

A No, our people were especially vigorous and healthy and instructions had been given that we had to march a short stretch only. Furthermore I can't answer that without flattering myself that I always saw to it that the people would get something to eat and they received enough food and they were satisfied as far as food was concerned to a certain extent every day.

Q What was the nationality of these people?

A I didn't ask them but there were several nationalities. I never had conversations with prisoners.

Q Did they have insignia on their uniforms or on their prisoner's suits?

A I don't know that. Some of them had already taken their insignia off and I didn't pay any attention to them.

Q Did some of them have insignia on?

A I repeatedly noticed the red triangles but no other insignia. Several of them were wearing civilian clothes.

Q Did you notice what the nationality was of those who wore insignia?

A No. Mr. Berkowitz, I have always told the truth. I told you the truth at all times.

(Graeber-cross)

Q Did you see prisoners shot by the SS or the Lager Politzei at Floss?

A No. In Floss there was an air attack and reportedly several death cases occurred but I was in the seventh or eighth car from the end of the train and the injured and dead bodies were quartered in the first car. I also heard that several guards had been killed or injured and saw the ambulance driven up to the railroad station.

Q Now without telling us a long story will you please answer my next question? Did you see any SS or Lager Politzei shoot any prisoners at Schwartzenfeld?

A No.

Q Did you see any SS or Lager Politzei shoot any prisoners at Neuenburg or in the neighborhood of Neuenburg?

A No.

Q As a matter of fact you never saw any prisoners shot by SS or Lager Politzei on that transport?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. MAIL:

Q Mr. Graeber, when were you placed in confinement in connection with this case?

A I was interrogated on the 25th of January, 1945 in connection with this case.

Q Of what year?

A 1946.

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Flossenburg

Q Were you in confinement then?

A No, that is, I was in the special camp at that time.

Q Were you free to go around then?

A Yes, in the special camp of course.

Q Where was this special camp?

A Here at Dachau.

Q Could you go downtown and buy an ice cream soda any time you wanted?

A No, that was a misunderstanding on my part. What I wanted to say was that I had not been in the bunker at that time. Mr. Berkowitz didn't lock me up in the bunker until the 8th of February.

Q On what date were you actually placed in confinement?

A For the first time? The 2nd of May, 1945. On that date I was taken prisoner by the American troops.

Q Have you been in confinement since that time to the present time?

A Yes.

MR. HALL: That is all.

PRESIDENT: Doctor Wacker.

QUESTIONS BY DOCTOR WACKER:

Q Mr. Graeber, do you know SS Captain Pabbo?

A I do. He was my company commander at Gross Rosen and he was in charge of our transport from Gross Rosen to Flossenburg.

MR. HALL: If the court please, I move that so much of the answer reading "in charge of our transport from Gross Rosen to Flossenburg" be stricken as immaterial to this case.

(Graeber-redirect)

DOCTOR HACKER: No objection on my part.

PRESIDENT: The motion of Mr. Hall to strike is sustained.

COLONEL JACKSON: I object to the ruling of the court.

PRESIDENT: The court will be closed.

(Thereupon the court closed at 1650 hours and was opened at 1500 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show all members of the court are present; all the personnel of the prosecution are present except Mr. Monson and Mr. Minter, who are absent on business for the prosecution; all the personnel of the defense are present except Colonel Wilson, who is absent on business of the accused; all accused are present except Buddensieg, Olschewski, Oswalt, Jakubith, Lipinski, and Patzke, who are sick in the hospital and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case will they please leave the court room.

PRESIDENT: The motion to strike on the part of defense counsel, Mr. Hall, is sustained. The court will adjourn until 9:00 o'clock tomorrow morning.

(Thereupon the court adjourned at 1705 hours until 0900 hours October 24, 1946.)

CA/GI 13

First Duplicate

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Court Copy

6R1

FLOSSENBURG V

PAGES 5566 - 5645 Incl.

Case No. .....

Prosecutor .....

*~~Summary~~ ~~of Military Court~~
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 24 October 1946

Reporter .....

0900 - 1700 hours

~~Members of Court:~~

WITNESSES:

KARL GRAEBER
AUGUST FAHRNBAUER
LONI BARTH

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

Imprisonment — Term .....

Beginning ..... 194.....

Fine — Amount .....

To be paid before ..... 194.....

or in case of default of payment to serve a *further term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

In trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

24 October 1946 0900 - 1700 hours Pages 5566 - 5645 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
GRABER, KARL -	5567		5566 5580	5580	5569
FAHRENBAUER, AUGUST	5585	5604 5620		5618	5614
BATTH, LOMI	5631				

EXHIBITS

No.	Description	Marked	Rec'd in Evidence
D-32	Letter from Chaplain Nuwer		5584
D-33	Card showing Fahrnbauer arrival		5630
D-33-A	English Translation		5630

Camp Dachau, Germany
24 October, 1946

MORNING SESSION

(Whereupon the court reconvened at 0910 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jahnbith, Risbusch, Lipinski and Matzke who are sick and whose interests are being taken care of by their counsel. If there are any spectators in the court room who expect to be called as witnesses, will they please leave the court room.

PRESIDENT: Redirect?

KARL GRAEBER, an accused, resumed the stand and testified further through an interpreter as follows:

REDIRECT EXAMINATION

QUESTIONS BY DR. HACKER:

Q Your answer in response to my question was stricken from the record yesterday because upon my question whether or not you know Captain Beblo, you answered "where I got to know him". For this reason I again ask you, do you know Captain Beblo?

MR. HALL: The entire answer was not stricken. I must ask that counsel explains for whom he is asking this question and whether this is direct or cross examination?

PRESIDENT: The court calls Dr. Hacker's attention to the fact that the entire answer was not stricken from the record. On behalf of which defendant are you interrogating at the present time?

DR. WACKER: I am asking on behalf of the accused Sommerfeld.

PRESIDENT: Is this cross examination?

DR. WACKER: No, it is direct examination.

PRESIDENT: The court will take a short recess.

(Whereupon the court recessed and reconvened at 0930 hours.)

PRESIDENT: The court will come to order. Dr. Wacker, in answer to your question propounded to the witness Graeber -- 'do you know an SS Captain Beblow' -- the first portion of that answer was 'yes'. That portion of the answer was not stricken from the record. All right, proceed Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Do you know the accused Sommerfeld?

A Ido.

Q Please point him out?

A No. 47 (indicating)

DR. WACKER: Let the record show that the accused Graeber identified the accused Sommerfeld.

QUESTIONS BY DR. WACKER:

Q What was the appearance of Captain Beblo. What did he look like?

A Captain Beblo might have been about 5 to 7 centimeters taller than First Lieutenant Sommerfeld, and his attitude might have been a little straighter than the one of Sommerfeld, but there was a great similarity between both of these men.

Q What were the duties of Captain Beblo on the transport which left Flossenburg and went to Nuenburg by way of Schwanenfeld?

A Captain Beblo was the immediate subordinate of the highest ranking officer on that transport, and as far as I know,

he was supported by Sommerfeld in Sehwammfeld and that I know for sure Captain Bohle posted the guards in the morning of the 19 April 1945 and then he remained back in Sehwammfeld in the same evening together with the people who were not capable of marching and the six marching groups of Sommerfeld left the place.

Q I think there was a misunderstanding in the translation. Repeat your answer.

A In the morning of the 19 April 1945, Captain Bohle assigned the guards for the day, I am quite sure of that, and then in the evening of the 19th April after the six marching groups under First Lieutenant Sommerfeld had left, he remained back in Sehwammfeld together with the prisoners who were not capable of marching.

Q Am I correct, Graeber, in understanding that the transport was divided up into two groups in Sehwammfeld, namely, one group consisted of prisoners capable of marching and the rest was not capable of marching.

MR. BERKOWITZ: I object.

PRESIDENT: The objection is sustained.

QUESTIONS BY DR. WAGNER:

Q Was Captain Bohle with the platoon under Sommerfeld?

A No, he was not with them from Sehwammfeld, but I already stated that he remained back at Flossenburg together with the prisoners who were not capable of marching.

Q Where did Captain Bohle go with the prisoners not fit to march?

A I don't know that, but in Neunburg, when he arrived at Neunburg during the night, I found out that Captain Bohle had already passed Neunburg at that time.

Q That was during the night from the 21st to the 22nd

April 1945.

PRESIDENT: Dr. Wacker, there is a question of relevancy about references to this Captain Beblo. Can you tie it into the main issue and explain to the court the reason for this discrepancy?

DR. WACKER: The reason for my line of questioning is the following. The prisoner brought up that there were some deaths in the vicinity of Neuenburg and now it is my aim to prove that these dead bodies were not from the platoon of Beblo and not from the transport of Sommerfeld.

MR. HALL: The witness has already answered that question in the testimony yesterday.

DR. ACKER: I don't think so because the witness did not even mention the transport of Captain Beblo in his testimony yesterday. Up to yesterday one had to assume that only one single transport went through Neuenburg.

PRESIDENT: Proceed, Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Do you know if any other prisoner transport passed Neuenburg with the exception of the transports of Sommerfeld and Beblo?

A No, I don't know that.

DR. WACKER: Thank you.

PRESIDENT: Any further direct examination? Redirect?

MR. HALL: Nothing, sir.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing, sir.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q How well do you know Captain Beblo?

(Crocker - court)

Q Captain Bohle was my commander from June 1944 until the end when we were sent to Flensenburg. That was the end of February 1945.

PRESIDENT: Any further questions by member of the court?

QUESTIONS BY LT. COLONEL BURCHAM:

Q You say that Captain Bohle was in charge of the work column from Schmarzenfeld?

A Yes.

Q How many roads are there from Schmarzenfeld to Neunburg?

A As far as I know two. You must be able to see that from the sketch.

LT. COLONEL BURCHAM: I have no further questions.

QUESTIONS BY MAJOR LANHAM:

Q What was the date of your arrival again in Flensenburg?

A 27th February 1945.

Q Did this Eric Rosenthal come from your camp to Flensenburg do you know?

A I don't know that. I never knew him.

Q He seems to have known you pretty well on the march. He testified a little bit about you. Did you know him on the march?

A No, I didn't know him on the march either, and he could not have known me either. In his testimony he stated that the first time he saw me was in Schwarzenfeld.

Q What was the time you say you left Schwarzenfeld on the march?

A I left Schwarzenfeld after the last column, later than 8.30 in the evening, and Rosenthal states that he left Schwarzenfeld between 6 and 7 o'clock in the evening.

Q Rosenthal testified that he left the column which left

(Graeber - court)

five or six or possible 7 o'clock according to the record, and that you were in command of this column, is that correct?

A That is not correct.

PRESIDENT: The court will take an half hour recess.

(Whereupon the court recessed at 1000 hours.)

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Camp Dachau, Germany
24 October 1946

MORNING SESSION

(Whereupon the court reconvened at 1040 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski Oswalt, Jakubith, Kirbach, Lipinski and Watzke, who are ill and whose interests are being taken care of by their counsel.

Any spectators in the courtroom who expect to be called as witnesses in this case will please leave the courtroom.

KARL GRAEBER, an accused, resumed the stand and testified further through an interpreter as follows:

EXAMINATION BY THE COURT (continued)

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY LT. COL. SKIELVIG:

Q Graeber, do you know what mode of transportation, if any, was used by Capt. Ba[illegible]o's particular group on their march from Schwarzenfeld to Neuenburg?

A No, I never saw him again.

Q Did you ever hear how he got there?

A No, I only heard in Neuenburg, at another station, that the transport of Bablo had already gone through.

A No further questions.

QUESTIONS BY THE PRESIDENT:

Q Just what became of your rifle?

A My rifle was burned on the 20th of April between 11:00 and 12:00 o'clock, through the strafing attack in the forest.

(Graeber-Court)

Q What do you mean, "burned"?

A It was completely burned up together with all my baggage.

Q The barrel also?

A The barrel was cherred.

Q Graeber, you served in the First World War?

A Yes.

Q You were in combat, weren't you?

A Yes.

Q How much service did you have, all told?

A I was in the war from the beginning to the end, in the First War.

Q Do you mean to tell the court then that you, as a veteran soldier, having lost your rifle, were not able to get another one?

A There wasn't any chance of getting another one.

Q Were there any SS men seriously wounded or killed during the course of that strafing?

A No, no prisoners either.

Q You weren't able to get hold of another rifle at all during the course of that evacuation march?

A No, it wasn't possible.

Q It wasn't possible to find another rifle when you were in immediate contact with the American troops?

A Yes, that's right. We were completely cut off. Who would be able to give me a rifle?

Q The court was referring to any endeavors on your part, under those circumstances, to arm yourself.

A Yes, I attempted to meet the other columns and see if they had a spare rifle for me butI didn't meet any other column.

Q During all those days you weren't able to rearm yourself, is that correct?

A No.

Q Did you ever have occasion to use that rifle prior to its destruction, during the course of the evacuation march?

A No, never.

Q Were you armed with a pistol at any time during the course of the evacuation march?

A Never. I never had a pistol in my hand in all my life.

Q Any further questions by members of the court?

QUESTIONS BY LT. COL BURCHAM:

Q How many camp police were there with this group?

A We didn't have any camp police with us.

Q How many with the transport?

A As far as I know there were only six or eight camp police in the whole rail transport and they smuggled their way into the transport because officially, no camp police were assigned to the transport at all.

QUESTIONS BY LT. COL. SKIELVIG:

Q How many other men lost their rifles in that air raid.

A Three or four men. Freese was one of these. He lost his pistol, too.

Q Didn't you usually keep your rifle with you all the time you were with those prisoners, supposed to be guarding those prisoners?

A The air raid attacked about half an hour after I had been there. As a rule when we were marching I would keep my rifle with me.

Q But in camp you would not keep your rifle with you?

A I didn't guard any prisoners in the camp.

(Graeber-Court)

Q I don't mean in the camp. I mean in the forest where you camped out for the night. Didn't you keep your rifle with you during your rest halt?

A I was there only one night and I slept with my rifle. I wasn't there for the purpose of being a guard.

Q You were there one night and slept with your rifle?

A Yes.

Q No further questions.

QUESTIONS BY PRESIDENT:

Q Graeber, were you wounded during the course of that air raid?

A No.

Q Can you explain to the court how your rifle was destroyed and you weren't wounded?

A Weichmann and I had been with the group for about half an hour. We placed our rifles and our baggage against a tree and we were taking it easy, and at this moment it all happened very suddenly. The strafing planes dived down on us and we plunged head over heels into some trees and we were looking for cover there. That's the way it was.

Q How far away was your rifle from the spot where you were taking it easy?

A Five or six meters. In that minute we didn't know what to do. We ran away and looked for cover.

Q What caused this damage to your rifle? Was it from small arms fire or incendiaries or what?

A The incendiary bombs which the planes dropped off. The whole wood area stood in flames.

(Graeber-Court)

Q You weren't wounded or burned at that time at all?

A No, we were lying on the ground behind a big tree.

Q Any further questions by members of the court?

QUESTIONS BY LT. COL. SPYLY:

Q Briefly, Graeber, what were your duties on this transport?

A Starting with Schwarzenfeld, Sommerfeld and I marched along about 10 kilometers behind the last column.

Q Just a moment, were you or were you not a guard?

A I was not yet assigned to duty as a guard there.

Q When you left Flossenburg were you told you'd be a guard or did you just follow the column?

A From Flossenburg to Schwarzenfeld I had duty as a guard on the rail transport.

Q Did you have any more guard duty after you got off the train? Just briefly, did you have any more guard duty?

A From the 20th of April when Sommerfeld sent me over to Schmidt.

Q You did have some guard duty then?

A Yes.

Q Did you carry out that guard duty?

A Yes. I carried out guard duty but I didn't have any weapon.

Q When you did have your weapon did you have any guard duty?

A That only lasted for a short hour.

Q What were your instructions as a guard? What were your duties as a guard?

A I didn't get any instructions.

Q Were you supposed to keep prisoners from escaping or not?

A Well, that's a thing that is understood by itself.

(Graeber-Court)

Q You understood that?

A Yes.

Q Without any orders at all you knew that would be true. Is that right?

A Yes.

Q From the time you left Flossenburg until you arrived in Dachau, did you see any SS personnel along the way shoot any prisoners?

A No.

Q Did you hear of any of them shooting any prisoners?

A No, I only marched with our own group and there were no shots fired there.

Q Did any SS personnel shoot their weapons for any reason at all during that time?

A No.

Q When the strafing planes came over they didn't fire them at all?

A No.

QUESTIONS BY LAW MEMBER:

Q So far as you know there was no weapon fired by any SS person from the time you left Flossenburg until you arrived at Dachau at all?

A I never saw anything or heard anything like that.

Q No further questions.

QUESTIONS BY PRESIDENT:

Q How many corpses did you see along the line of march taken by your column?

A I didn't see any corpses in our column.

Q You didn't see a single corpse along the line of march?

A Yes, behind Straubing.

Q How many did you see there?

A Five or six corpses.

(Graeber-Court)

Q You only saw five corpses along the route of march followed by your column all the way through the entire march, is that correct?

A Yes, but I would like to mention that after Straubing I wasn't with the column anymore. During the march, when I was marching with my marching group, I didn't see any corpses. I couldn't see any anyway because we were marching at night.

Q After you left Straubing, did you see any corpses?

A Yes.

Q How many?

A Five to six.

Q Just who was it put you on guard duty when you were unarmed?

A I was assigned to this column and so I went on along with the column without making any bones about it.

Q Do I understand you to say that after this strafing incident in the woods near Schwarzenfeld, that you performed guard duty after that, is that correct?

A Yes, but without a gun.

Q What the court wants to find out is just what individual placed you on guard duty when you were unarmed?

A Nobody. I must mention here that, starting with that time when I didn't have a gun anymore, I tried to do what I could for the prisoners by securing them food. I wasn't so much a guard. I was a man who was getting the food.

Q But you were guarding prisoners after that incident, were you not?

A I just marched along with the column and saw to it that they got some food.

PRESIDENT: Any further questions by members of the court?

QUESTIONS BY COLONEL JACKSON:

Q You consider any soldier marching along with a column of prisoners, on guard duty?

(Graeber-Court)

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A Yes, of course.

Q How many prisoners left Flossenburg in your column?

A I estimate 1600 to 1700, roughly.

Q Did you see 1600 to 1700?

A Yes.

Q Later on that was broken down into six groups, is that correct?

A Yes. There were about 1000 men who started when we left. 1000 men who were capable of marching.

Q How many were marching in that group in which you were marching?

A About 150 or 160 men.

Q How many of those arrived in Dachau?

A I don't know that because the leader of the detail turned over this group to Commander Foerel about 1800 kilometers beyond Straubing and they were taken up by the larger column and marched with them.

Q How many were turned over to the larger column that stopped at Straubing?

A I don't know that. Schmidt told me he had turned over all his men, everyone.

Q When you reported to Schmidt, when you first reported to him after leaving Sonnerfeld, did Schmidt give you any specific orders?

A No.

Q But you considered yourself a guard?

A Yes.

Q And on duty?

A Yes

(Greeber-Court)

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QUESTIONS BY LAW MEMBER:

Q I understand on orders from Lt. Sonnerfeld you joined the column of Schmidt on the morning of the 20th of April, is that correct?

A Yes.

Q How long did you stay with this column?

A I stayed with this column until Spreding, until the morning of the 23rd of April.

PRESIDENT: Any further questions by the court? Apparently not. Redirect?

REDIRECT EXAMINATION

QUESTIONS BY DR. MAYER:

Q If 1600 to 1700 prisoners left Hassenburg and in Schwarzenfeld six groups consisting each of 150 to 160 men marched from Schwarzenfeld on, where were the rest of them?

A They stayed at the railroad station in Schwarzenfeld under the command of Capt. Gablo. They were there when we marched away.

PRESIDENT: Any further redirect examination?

MR. HALL: Nothing further.

PRESIDENT: Recross?

RECROSS EXAMINATION

QUESTIONS BY MR. ROBERTS:

Q Did you know the witness, Gottsmann, who testified here a few days ago?

A Yes.

Q Did you march in the same column with him?

A Starting with the 20th of April, yes. He had already been with Schmidt's column before that.

Q Did you marching during the night with Gottsmann?

A Yes.

(Graeber-Recross)

Q Gottsmann has testified that he heard shots now and then. Do you recall that?

A No.

Q Did you hear shots now and then?

A No.

Q In response to a question by the law member, am I correct in saying you stated the column left Schwarzenfeld at 8:30?

A It was after 8:30, it was the last column behind which I marched, but it was after 8:30.

PRESIDENT: You had better clarify that, whether it was 8:30 in the morning or evening.

Q What time of day?

A In the evening.

Q Did you testify yesterday that the column left Schwarzenfeld at 7:00 p.m.?

A No.

Q Are you certain of that?

A Yes.

Q Did you know a Sgt Walters?

A No.

Q Didn't you, during a previous interrogation, state that a Sgt Walters was at the head of that group?

A Yes. That was during my first interrogation and I forgot the name of Schmidt and later on it occurred to me that the name of the detail leader was not Walters, but Schmidt. I immediately made a report about that and gave the right name to my defense counsel.

Q Who gave you the information about Schmidt on which you changed your statement?

A I thought it over very thoroughly when I was sitting in my cell and I finally came upon the name.

Q Did you know about it in April?

A Yes, I already knew that then.

Q Did you, during the course of interrogation in April, state that the leader of that group was a Sgt Walters?

A When I was asked about that then I gave the name "Schmidt" because I knew that already.

Q Are you sure you said "Schmidt" in April?

A I can't remember exactly whether they asked me about this specific point in April. I've been interrogated four times.

Q You just stated you mentioned Schmidt in April.

A If they asked me about it then, then I gave that answer then

Q Nothing further.

PRESIDENT: Redirect?

MR. HALL: Nothing further

PRESIDENT: Any further questions by members of the court? Apparently not. The court understands the defense is finished with this witness?

MR. HALL: Nothing further, sir.

PRESIDENT: Greeber, the court would like to know, at this time, whether or not you have any additional evidence to give the court or any additional statements you'd like to make at the present time.

ACCUSED: I don't have anything else to explain.

PRESIDENT: The witness is excused and will resume his position in the dock.

DEFENSE: May it please the court, at this time, as a matter of convenience, I will ask the reporter to mark for identification a letter which I hold in my hand and of which I have given a copy to the prosecution.

(Whereupon the reporter marked the letter referred to as Defense Exhibit 32 for identification.)

This has been marked Defense Exhibit 32 for identification,

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pls/12

and the circumstances of obtaining this paper very briefly were as follows: On 14 October I was in Vienna on temporary duty in connection with other matters. While there I took occasion to call upon Chaplain R. J. Nuwer, who is the chief of the Ecclesiastical Affairs Branch of the U. S. Forces in Austria, a Lieutenant Colonel in the Army, and if I am correctly informed, a Monsignor in the Roman Catholic Church. I asked him what would be the line of approach to obtain a statement from the Superior of the Calasantiner Monastery. He looked into the matter on the 15th at a time when I had only a few hours left to remain in Vienna and told me certain matters he had learned in a conversation with a Superior of the Order. There was no time for me to take a formal statement - obtain an interpreter, etc., because I had only a few hours to remain, so Chaplain Nuwer offered to write a letter setting out the circumstances of this occasion. I realize full well this is somewhat irregular. On the other hand, it pertains only to corroboration of certain rather collateral evidence which has already been offered. I would further say that there is a reference here to a Monk, Reverend Hugo Riebl. Chaplain Nuwer does not say so in the letter but he informed me that Reverend Father Riebl is dead. I might further add that the penitentiary referred to in here where Reverend Father Riebl was confined was not Flossenburg. I hereby offer in evidence Exhibit 32 for the Defense, which I have just explained, which has been marked for identification, for such probative value as the court sees fit to give it.

PRESIDENT: Any objection on the part of the prosecution?

MR. DENSON: No objection with the modifications that have been made by the Colonel in his offer. In other words, that this conversation was held with some Monk and not the man who was named in the letter, namely, Hugo Riebl, and further, that it took place not in Flossenburg but at another penitentiary.

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PRESIDENT: Then the court understands, Col. Denson, with those reservations the prosecution has no objections?

MR. DENSON: That is correct. In other words, I thought it appeared a little ambiguous in the present form and we have no objection to it with that explanation of the Colonel's.

PRESIDENT: Mr. McKay?

MR. MC KAY: This particular objection applies to the accused, 37. It it offered solely for the purpose of character of the accused and only that purpose.

PRESIDENT: Subject to objections on the part of any member of the court, Defense Exhibit 32 will be received by the court in evidence and will be given such weight as the court sees fit. Do you plan on having this read, Mr McKay?

MR. MC KAY: I was just going to request the court for the opportunity of reading it.

(Whereupon Mr. McKay read Defense Exhibit No. 32, a letter from Chaplain R. J. Nuwer, as follows:

"HEADQUARTERS
UNITED STATES FORCES IN AUSTRIA
USACA SECTION
INTERNAL AFFAIRS DIVISION
APO 777, U. S. Army

16 October 1946

I, the undersigned, Chaplain (Lt. Colonel) Roman J. Nuwer, visited the monastery of the Calasantiner Monks in Vienna, on 15 October 1946.

During an interview with the Superior of the Monastery, the following facts were brought out:

a) that one of their monks, Rev. Hugo Riebl, over 70 years old, was sent to the penitentiary for listening to foreign news broadcasts.

b) that in the penitentiary this old priest met Retslaff.

c) that Retslaff frequently, out of sympathy for the old priest, performed some of the heavy labor imposed upon the priest.

d) that Retslaff contributed money for the support of a family of one of his fellow prisoners.

/s/ Roman J. Huwer

ROMAN J. HUWER
Chaplain (Lt Colonel) USA
Chief, Ecclesiastical Affairs Branch"

PRESIDENT: Defense?

MR. HALL: The defense calls as its next witness the accused, FAHRNBAUER, who desires to take the stand in his own behalf.

PRESIDENT: Fahrnbauer, the court understands that you desire to take the witness stand in your own behalf, is that correct?

ACCUSED: Yes.

PRESIDENT: Proceed, Mr. Hall.

AUGUST FAHRNBAUER, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Please state your name.

A August Fahrnbauer.

Q Your age?

A 56 years old.

Q Your nationality?

A German.

Q What is your civilian occupation?

A Farmer.

Q What is your religious preference?

A Catholic.

Q Are you a member?

A Yes.

Q Describe your education, briefly.

A I went to grammar school between 1896 and 1904, and 1904 to 1906 in the middle school.

Q Are you married?

A Yes.

Q Do you have any children?

A Two.

Q What are their ages?

A 19 and 22 respectively.

Q Were you a member of the Nationalist Socialist Party?

A No.

Q Did you serve in the First World War?

A Yes.

Q Briefly describe your service in the First World War.

A I was an active soldier between 1911 and 1913, then I was released and on the 22nd of July 1914 I was redrafted and I took part in the reserve maneuvers and we went to France on the 1st of August 1914.

Q What campaigns did you participate in in the First World War?

A France and Russia.

Q Were you wounded at any time in the First World War?

A I got a shot in the stomach and a shot in the head in Russia, in Brest Litovski, and in France I got two shots in my arm.

Q Please talk loudly enough so everybody in the courtroom can hear you.

Q Did you have any service in this war just finished?

A Yes.

Q Briefly explain that.

A I was drafted on the 3rd of September.

(Fahrnbauer-Direct)

Q What year?

A '40, and I came toCologne.

Q All right.

A What am I supposed to say?

Q Continue.

A And from there I went and took part in the Russian campaign. I was wounded in Minsk when we were clearing a mine field and I ended up in the hospital. The th of April 1942 I returned to a reserve battalion and then I was transferred to the economic department because I wasn't available anymore. I couldn't be used as an engineer. I came to Kassel from the economic department and from there I went back to Russia again and stayed in Russia until the 27th of February 1944.

Q When did you get into the SS?

A I didn't join the SS. I was forced into the SS.

Q Explain that.

A There was an order came out that people who have been severely wounded should be changed about, retransferred and turned over to the SS, so that the men who were younger and stronger could go to the front and I was one of these involved in this deal.

Q When was it you became associated with the SS. What was the date?

A On the 22nd of May I got orders to shove off and on the 1st of September I was taken over by the SS.

Q What year?

A '44.

Q What was your rank in the Wehrmacht at the end of the First World War?

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A Sergeant, First World War.

Q What was your rank when you were drafted into the Wehrmacht at the start of your participation in this World War?

A I was a Technical Sergeant.

Q What was your rank when you were taken over by the SS?

A I was taken over as a Technical Sergeant. Before that I had been a 1st Sergeant.

Q When did you arrive at Camp Plattling?

A I can't tell you the exact date. I believe it was the 23rd of February 1945.

Q When did you leave Camp Plattling?

A That was the 22nd of April.

Q While you were at Camp Plattling, what were your duties?

A To begin with, I had control of the commandos of the details which were out on the airfields.

Q What did that duty consist of?

A I had to check overthe individual detail leaders and ask them whether everything was in order. I had to see that the guards had their places and were properly equipped with weapons, then I had to go to the next guard position and do the same thing.

Q Who was the commanding officer of Plattling during the time you were there?

A That was T Sgt. Soerensen.

PRESIDENT: Spell that slowly.

A S-o-e-r-e-n-s-e-n.

Q What duties were you performing on the day you left Plattling, that is, on about the 22nd of April 1945.

A On that day?

Q That is correct.

A Yes. In the early morning I had to bury the victims of the air raids. They were the victims of the great big air attack which we had had before that. I had about 30 men to help me and we had to check over their personal data, etc.

Q With whom did you leave Camp Plattling on that day?

A We left with two trucks, Guth and I and Sendel, a certain prisoner called Hannes, he comes from Gelsenkirchen.

Q Anyone else?

A Nobody else.

Q What means of transportation did you use when you left Plattling?

A We went with two trucks. One truck was loaded with baggage and food and there were 36 prisoners in the other truck. That is, 30 sick prisoners.

Q What time did you leave with that group on that day?

A It could have been 7:00 o'clock in the evening when we drove away from the camp itself.

Q When you drove away from the camp itself, where were the prisoners of Camp Plattling?

A What prisoners? There were the sick ones and the ones who marched away.

Q I'm talking about the ones you just said marched away. Where were they?

A They marched away in the afternoon between 1:00 and 2:00 o'clock.

Q Where were you from the time they marched away until the time you left that evening?

A In the meantime I packed all our baggage together. We had considerable flour. Guth took one truck and drove into Plattling with it and went to a sausage factory, Sitelshirrer, a sausage factory where he wanted to get some conserves. He was supposed to get some conserves there.

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Q What duties were you performing in general during that period of time I have just mentioned?

A My first duty was to see to it that we got our food, our supplies.

Q All right, continue.

A And the second thing was to make sure that all the baggage was ready to travel and that the sick prisoners would come along.

Q How did you happen to be performing these particular duties?

A I don't understand that. That isn't understandable to me.

Q At whose request were you performing these duties?

A The detail leader, Soerensen gave me this order.

Q What instructions did he give you?

A He said that you should see to it that all the baggage would be prepared for the travel and it would be taken along, and to see to it that the canned meats and bread arrive. Besides that I should see to it that we get another car for the prisoners. And we got our second wagon after this, come back from the sausage factory, Sitelsbirger, with the cans of food. Sendel and I then went and got this truck, this car from the workshop.

Q When were these duties assigned to you by Soerensen?

A That was probably around 12:00 o'clock on the 22nd. It could have been later.

Q Well, when you left Camp Plettling then that evening, where did you go?

A First we came to Ocsing.

Q What happened there?

A There we unloaded bread and flour and we turned it over to the capo of the Camp, Walter Kessel.

(Fehrnbauer-Direct)

Q How long did you remain in Ocsing?

A It could have been half an hour, it could have been just a quarter of an hour

Q Where were the prisoners of Plattling who had marched away from Plattling?

A The prisoners who had marched away from Plattling were already in Chem.

Q Where was Soerensen at the time?

A I didn't see him. The only one I met was Schoenberg.

Q Who was Schoenberg?

Schoenberg was the official camp leader or record leader.

Q Where was Soerensen when the column left Plattling?

A He drove on after the column with the bicycle.

Q What did you do after you left Ocsing?

A We drove to Landau.

Q Approximately when did you arrive in Landau?

A I don't know that anymore exactly. It would probably be around 10:00 o'clock.

Q On what date?

A On the 22nd in the evening.

Q The 22nd of what?

A April '45, the 22nd.

Q What happened in Landau?

A Sendel said that one of the trucks had a hot engine and he didn't think it would make the hill.

Q What happened?

A He said we couldn't make the hill so we started checking up with the car and I said to Guth and to a private who was there, they had to take care of the prisoners.

Q When you left Oczing by this truck, what were the prisoners doing?

A What prisoners?

Q The prisoners from Plattling, and I don't mean the sick prisoners.

A I don't know. It was dark, some of them were lying in the barn and some of them were running around by themselves. I couldn't see anything clear.

Q How long were you in Landau, approximately?

A Perhaps ten minutes.

Q Where did you go when you left Landau?

A I went to Eggenfelden.

Q With whom did you go to Eggenfelden?

A Just with Sendel. Just a second, pardon me - Sendel and the prisoner, Hannes, and there was a G.I.

Q A what?

A A G.I., a soldier.

Q Approximately when did you arrive at Eggenfelden?

A The whole street was full of troops, we had to stand still sometimes. We couldn't even drive on anymore, and it wasn't until towards 7:00 o'clock the next morning we arrived in Eggenfelden.

Q What date was that?

A That was the 23rd of April 1945.

Q For what purpose did you go to Eggenfelden?

A I was supposed to find quarters in Eggenfelden and wait for the transport there.

Q What happened then in Eggenfelden?

A In Eggenfelden I went to the mayor of the city and asked for quarters. He gave me some billets which were outside of the City of Eggenfelden. I drove down to this village and asked for the quarters

but they refused them to me because they said combat troops had to come in there. I got hold of the mayor of Eggenfelden on the phone and he said I should see to it whether I couldn't find some billets in St. Sebastian.

PRESIDENT: Mr. Hall, let's bring the witness down to the main points of the case as soon as possible. The court is willing to consider the background but have him avoid as many of the details as possible.

Q All right. When did you leave Eggenfelden?

A You mean everybody or just me?

Q You and whoever went with you.

A On the 23rd we unloaded the baggage, got our billets, and after I had got our billets from that mayor we unloaded the bag age in a barn.

Q Approximately when did you leave Eggenfelden?

A That was probably toward 2:00 o'clock in the afternoon on the 23rd.

Q Then where did you go?

A I drove back and wanted to go to Landau.

Q Who returned with you?

A The only one who drove back with me was Sendel.

Q Approximately when did you arrive back at Landau?

A We didn't get back to Landau until shortly before 7:00 in the evening because the streets were being strafed by flyers.

Q Approximately how long did you remain in Landau?

A We didn't get into the center of Landau at all. In the meantime Guth had gotten hold of a tractor and had his car pulled into the valley and there I met him.

Q How long did you remain in that area after you met Guth?

A We inspect d the wagon, Sendel inspected the wagon, he was a specialist and he told me that we couldn't drive with this car anymore. First of all it was out of order.

Q About how long did you remain then in that area?

A One night.

Q Then when did you leave that area near Landau?

A Next morning at 5:00 o'clock Sendel came in with gas for the car and Guth and Sendel and I and the sick prisoners then got in the car.

Q Where did you go then?

A We drove back to St. Sebastian.

Q At the time you left this area near Landau, with Guth, Sendel and the sick prisoners, where were the other prisoners of Flattling?

A I don't know that. I didn't see them.

Q When did you arrive at St. Sebastian?

A That would be probably toward 10:00 o'clock on the 24th.

Q In the morning or evening?

A In the morning.

Q What happened when you arrived at St. Sebastian?

A The prisoners were given quarters in the barn. They made themselves straw bed, etc.

Q What prisoners are you speaking of now?

A The sick prisoners.

Q How long were you in St. Sebastian altogether?

A Around six days.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours.)

Camp Dachau, Germany
24 October 1946

AFTERNOON SESSION

(Thereupon the court reconvened at 1355 hours.)

THE PRESIDENT: The court will come to order.

MR. [illegible]: May it please the court, let the record show all members of the court are present; all the personnel of the prosecution are present except Mr. Mason and Mr. Minter, who are absent on business for the prosecution; all the personnel of the defense are present except Colonel Ellison and Mr. O'Connor; all the accused are present except Buchenwald, Dachau, Gault, Jakubith, Klinski, and Watzes, who are sick in the hospital and whose interests are being taken care of by counsel; and the reporter and interpreter are also present. If there are any spectators in the court room who expect to be called as witnesses in this case will they please leave the court room?

THE PRESIDENT: The assistant prosecutor is directed to give a report at the end of the next recess on the present status of the record of the Flossenburg case.

MR. [illegible]: That will be done, sir.

THE PRESIDENT: Continuation of direct examination, Mr. Hall.

[illegible] (Continued)

ERNST FAHRMBACHER, an accused, resumed the stand and testified further through an interpreter as follows:

[illegible] Hall:

Q What was the date that you arrived in Eggenfelden again, Fahrmbacher?

A The first time it was the 23rd and the second time it

(Fahrmbacher-direct)

was the 24th.

Q When did the prisoner column arrive in Eggenfelden?

A Toward 2 o'clock in the afternoon of the 25th.

Q Approximately when did you leave Eggenfelden the second time?

A You mean when I went away with the car?

Q Yes.

A That was around 2 o'clock in the afternoon of the 23rd.

Q You arrived in Eggenfelden the second time on the 24th, is that correct?

A Ten o'clock in the morning of the 24th.

Q And the prisoners arrived about 2 o'clock on the afternoon of the 25th, is that correct?

A That is when the march arrived.

Q About how long did you remain in Eggenfelden?

A We went away after the first seven days.

Q Where were the prisoners when you left?

A When I left the prisoners were already on the way.

Q With whom did you leave?

A I went away with Sorenson and Schoenbert.

Q Where did you, Sorenson and Schoenbert go?

A I didn't get together with Schoenbert and Sorenson at all that day. Sendel came down from where the prisoners were quartered, came down to our quarters.

Q You have just testified that you left Eggenfelden on the 1st of May, 1945, is that correct?

A Yes.

Q For what town were you heading at that time?

A Alt Oetting.

Q What means of transportation did you use at that time?

A I covered the stretch with the car. We drove.

Q Who went with you?

A Sendel drove with me, Philip, and a prisoner and a sergeant of the medical department.

Q Where were the sick prisoners at that time?

A The sick prisoners were left in this farmer's farm and they were later to be brought up.

Q Where was Guth?

A Guth and I and Sendel, we all drove together.

Q At the time you left, where was the main column of prisoners?

A We drove off in the morning towards 7 o'clock and then six or seven kilometers away from St. Sebastian we overtook the column.

Q What happened when you overtook the column?

A Sorenson made a sign to me that I should stop and he drove over to me with his bicycle and he said, "As soon as you have got your billets in Alt Oetting see to it that you and Guth get food as soon as possible for the prisoners."

Q How long did your stop at this point last?

A At the most ten minutes, it wasn't even ten minutes.

Q After that conversation where did you go?

A We drove on immediately with the car to Alt Oetting.

Q About what time did you arrive in Alt Oetting?

A It was probably around 8 o'clock, it could have been a little after 8 o'clock when we got to Alt Oetting.

Q Was that morning or evening?

A Early in the morning.

Q Of what date?

A May 1, 1945.

Q What happened when you arrived in Alt Cetting?

A I went to the mayor and when I got to the mayor's office I found out that the mayor had been shot to death together with twenty-eight comrades of his in connection with this Captain Gerner Gross affair in Munich.

Q Were you able to find billets in Alt Cetting? Tell us about that.

A I had to wait until the second mayor came and the second mayor referred me to billets outside the city of Alt Cetting. That was about three or four kilometers distance from Alt Cetting. I received billets in the left side of the road in two farms there. I drove up there with the car, unloaded the baggage and I said to Philip he should get on his motorcycle right away and drive in the direction of the marching column and lead them back to the billets.

Q When was the next time you saw Philip?

A Then he drove away and that was the last time I saw him.

Q You mentioned having seen the prisoners five or six kilometers below St. Sebastian. When was the next time you saw the prisoners after that?

A I never saw them again after that.

Q After you sent Philip away what happened?

A I told Guth and Sendel to unload everything and they

should wait until we got back from this second farm. We had to drive in the city to the mayor and we wanted to see to it that we would get food and things of that nature there. When I got to the second house I found an Infantry Company had already taken quarters there. Then my stay there was delayed because I had to argue with the first lieutenant of the Infantry and tell him that he should clear the house, that the house rightfully belonged to us as quarters. We heard shouts. We went out and the first lieutenant came out too, and there were the American tanks advancing. Right after that we went over to the car again. Meanwhile they had unloaded everything and I gave orders that they immediately drive in the direction of Muehldorf or to Alt Oetting. When we got near Alt Oetting two top sergeants were standing there as field guards and they forbade us to drive into Alt Oetting. They made the remark that Alt Oetting had been declared a hospital city and no army vehicle or vehicle such as we were driving would be allowed to enter it. They told us to cross the Saalsak River. We turned off to the left and drove toward Burghausen.

Q Approximately when did you arrive in Burghausen?

A I can't tell you exactly. It could have been around 2 o'clock or 2:30.

Q What happened when you got to Burghausen?

A I took a look around. I wanted to see that everybody got in shape. There was a lot of confusion. The tanks were coming in. And then I ordered that we drive on to Aigen, and I went to the mayor.

Q Where was this? In Aigen?

A Yes, that's the name where —

Q Just a minute now. Where did you go from Burghausen?

A From Burghausen we went to Aigen.

Q And where did you go from Aigen?

A I stayed in Aigen.

Q Did you ever hear of a town called Reitenhauslack?

A That is a community, not a town.

Q What happened at that community?

A Aigen belongs to this community —

Q Just a minute, Fahrnbauer, are you a Bavarian?

A Yes, I am a Bavarian.

Q What happened in this community?

A I went to the mayor of this community, Reitenhauslack, and asked him to give me permission to get quarters for five men. We got one billet ticket from the farmer, Bohrnhauer, who appeared here as a witness. I have forgotten the name of the other farmer. This private and this medic stayed with this one farmer, and Guth and Sendel and I stayed with the other farmer.

Q How long did you remain with the farmer Bohrnhauer?

A I stayed until the morning of the 4th of May.

Q In general, during those days that you were with the farmer Bohrnhauer what did you do?

A We really didn't do anything. Once in a while I heard the radio and I took a look out in the street to see what was going on. In the evening of the 1st of May around 6:00 or 7:00 o'clock in the evening German children ran up the street and said American troops, American tank troops had already taken over a Prisoner of War camp at Pirach and they had freed American prisoners

who had been kept there. They had taken the guards along with them. They had shot to death the leader of the camp.

Q What was the date of this incident?

A That was probably the 1st of May around 6:00 o'clock in the evening. I didn't see it myself, though, that is what the youth in the village told me.

Q When was it that you left the farmer Bohrnhauer's house?

A On the 4th of May between 6:00 and 7:00 o'clock in the morning, I can't tell you the exact time.

Q Where did you go?

A I went by way of Pirach to home.

Q Where was home?

A In Herseching and Lake Ammer.

Q When did you arrive in Herseching?

A I arrived in Herseching on the 8th of May and I made my report in the community of Herseching on the 9th in the morning.

MR. HALL: Will the reporter please mark this card as Defense Exhibit No. 33 for identification, as well as this paper Defense Exhibit No. 33-A for identification.

(The documents referred to, being the registration card and furlough and food ration certificate of the witness, August Fahrnbauer, were marked Defense EXHIBITS Nos. 33 and 33-A respectively.)

QUESTIONS BY MR. HALL:

Q Fahrnbauer, I show you Defense Exhibit No. 33 for identification and ask that you identify it if you have seen it before.

A Yes, that is a report from the command dated the 9th of May, 1945, saying I reported there and at the same time my furlough card and my food card.

Q From whom did you receive this card?

A From the office of the mayor.

Q Of what town?

A Hersching.

Q Fahrnbauer, I show you Defense Exhibit No. 27 for identification and ask if you have ever seen this before?

A Yes.

Q What is that exhibit?

A That is a sketch of the march made from Plattling to Pirach.

Q Who made that sketch?

A Comrade Becker made this sketch for me.

Q I hand you this green pencil and ask you to trace the route on the sketch which you took from Plattling insofar as possible. Do not obliterate any other lines on that map. Just draw a line and show us the way you went.

A This is the route I took (indicating with pencil).

Q During the march from Plattling to the house of the farmer, Bohrnhauer what means of transportation did you use?

A We drove with the car.

Q How many times on the march did you see the column of prisoners from Plattling?

A After we left Plattling I only saw them go by the barn in Oesing, I saw them go b the barn there. After that I didn't see them at all until Eggenfelden and St. Sebastian.

Q Will you please mark with this pencil the letter "P" at the approximate place where you saw the prisoners?

A (Indicating) Then what about Eggenfelden?

Q All right.

(Whereupon the witness Fahrnbauer indicated the location of Eggenfelden).

Q You testified that you saw the prisoners on the road six or seven kilometers south of St. Sebastian.

A Yes.

Q Have you indicated that on the map?

A Yes, (indicating) that is probably about the same place near there.

Q Fahrnbauer, I call your attention to the testimony of the witness, Grinberg. He stated he saw you with the column the whole time during the evacuation march from Plattling. Do you confirm or deny that charge?

A I wasn't with this foot march at all. That is the truth.

Q He said you were either marching with the column or riding a bicycle at the head of the column. Do you confirm or deny that charge?

A Either Grinberg is making a mistake or else he is consciously telling a lie.

Q Who did have a bicycle that was with that column?

A Sorenson had a bicycle as far as I know and also Grinberg. I believe that Philip had a bicycle.

Q Did you say Grinb-rg also?

A Schoenbert, not Grinberg.

Q Grinberg said that you shot three prisoners to death. Do you confirm or deny that charge?

A I have already explained that I shot no prisoner to

death. I wasn't on this foot march at all.

Q Well did you shoot any prisoner?

A I never even saw the column at all except at this place near St. Sebastian, and there the streets were full of movement, the streets were full of people.

Q At the time you saw the column did you shoot any prisoners to death or did you shoot at any prisoners?

A At that time the prisoners were behind me. I only spoke with Sorenson.

Q Will you please answer my question directly? At the time you saw the prisoners did you shoot to death any prisoner or did you shoot at any prisoner?

A I never fired a shot.

Q I call your attention to the testimony of the witness, Szmulewicz. He stated that you gave orders on the march and took over from the very beginning. Do you confirm or deny his testimony?

A I have already explained that I had absolutely nothing to do with the march at all. I never had any charge of the march. I never took over command.

MR. HALL: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q You say the first time you saw the column was the time they went by the barn at Oezing, is that correct?

A At Oezing.

Q When was that?

A The column in Oezing was in the barn, the prisoners had

(Fahrnbauer-cross)

already cooked their food and eaten. Part of them were lying in back of the barn and some of them were running outside all around. We were driving back with the car from the street like this (indicating) and we unloaded some flour and bread and then we immediately shoved on.

Q Fahrnbauer, in answering my questions please try to be concise instead of telling us long stories. I asked if you stated a few moments ago when you saw them in the barn and you said, "I saw them go by the barn in Oesing". Is that correct?

A I said that I had seen the prisoners near the barn in Oesing.

MR. BERKOWITZ: Just a moment. I would like to have the record checked. Will the reporter please read Fahrnbauer's answer to my question?

(Whereupon the reporter read the answer as follows:

"A The column in Oesing was in the barn, the prisoners had already cooked their food and eaten. Part of them were lying in back of the barn and some of them were running outside all around—"

MR. BERKOWITZ: That's enough.

QUESTIONS BY MR. BERKOWITZ:

Q What time did you see them go by the barn in Oesing?

A The prisoners were in the barn. They spent the night there.

Q There must be a mistake somewhere here. Did you not state in direct examination that you saw the prisoners go by the barn in Oesing?

A There wasn't any talk about going past anything. I said the prisoners stayed over night in Oesing.

Q What did you mean when you said you saw them go by the barn?

MR. HALL: If the court please, the witness has already indicated that as far as he is concerned there has been a mistake. He has explained that, and I do not think anything more need be said.

PRESIDENT: There evidently is some confusion or misunderstanding, Mr. Hall. The objection of the defense counsel, Mr. Hall, is overruled.

ACCUSED FAHRNBAUER: There must be a mistake here. The fact is the way I mean to talk about it was that the prisoners were in the barn when we came there. I said that part of them were already in the barn, that they slept there, and several others of them were outside the barn running around there.

QUESTIONS BY MR. BERKOWITZ:

Q Did you or did you not see them go past the barn as you testified?

A I didn't see them go past the barn. They were in the barn.

Q The next time you saw them was in St. Sebastian, is that correct?

A Yes, when we got our billets.

Q You had gone ahead to Eggenfelden to get billets for them, is that correct?

A Yes.

Q Where did you get these billets?

A In St. Sebastian.

Q What did you do after you got the billets in St. Sebastian?

A I drove back and went and got the sick prisoners.

(Fahrnbauer-cross)

Q From Landau?

A From St. Sebastian to Landau.

Q Where were the sick prisoners?

A They were in Landau, just outside of Landau.

Q You went back from St. Sebastian to Landau to get the sick prisoners, is that correct?

A Yes.

Q Did you meet the column anywhere between St. Sebastian and Landau when you went back to get the sick prisoners?

A No.

Q Where was the column at that time?

A I don't know where it was.

Q Then you went back from Landau to St. Sebastian, is that correct?

A As soon as the prisoners were loaded. We unloaded the prisoners and loaded them on the truck that Sendel was driving. But the streets were crowded and I didn't dare go on driving because strafing planes were up above.

Q Do not give a long story. Just answer my questions. When did you leave Landau for St. Sebastian?

A The next morning.

Q Did you pass the column between Landau and St.Sebastian that day?

A No.

Q Where was the column at that time?

A I don't know where it was then. It didn't come until the 25th.

Q How much time elapsed between the time you procured

billets at St.Sebastian and the arrival of the column there?

A The 23rd we got our quarters, the 24th I came back, two days. The column came at noon on the 25th.

Q Had you been ordered by Sorenson to get these quarters?

A Yes.

Q Did you report to Sorenson about procuring these quarters?

A When the column came on the 25th around noon. Philip and Sorenson came around 12:30. They came with their bicycles and I showed them their billets, but in the meantime it so happened that we had to change our billets.

Q Between the 23rd and the 25th did you make any report to Sorenson that you had carried out your mission of procuring billets for the transport?

A On the 25th at noon when he came into the quarters which I procured I made a report to him. I told him that the sick prisoners had received quarters. Then we had to change our quarters and here's where we had to change them — from this spot here on the street to this spot ten minutes away (indicating).

Q When Sorenson sent you out to get quarters for whom did you procure these billets?

A For all the prisoners.

Q Did you report to him at any time between the time you procured these quarters and his arrival at Regenfelden?

A No, because I had no idea where he was.

Q Did you make any attempt to find out where he was?

A No, because I was waiting for him to come. I expected that he would search for me.

(Fahrnbauer-cross)

Q You expected that he would search for you?

A Yes.

Q You made no attempt to search for the column?

A I didn't have any time.

Q You had three days' time. What did you do in Eggenfelden?

A I was busy all the time.

Q What did you do?

A I had all kinds of dealings with this captain from the Army patrol because he was arguing with me and trying to claim the quarters which were rightfully mine.

Q That argument lasted three days?

A No. In the meantime I had already gotten the prisoners also.

Q What else did you do?

A On the 25th we brought the sick prisoners up to this spot here (indicating). Then we brought up all the baggage which had been there. Sendal drove it up with the truck. Meanwhile the column arrived.

Q Do you know where the column was quartered the first night after it left Oesing?

A I don't know that.

Q Weren't you sent ahead to get quarters for them?

A Yes, I got these billets here in St.Sebastian.

Q Did you get any quarters for them which they used the first night after leaving Oesing?

A No, that was none of my business.

(Fahrnbauer-cross)

Q How about quarters for the second night after they left Ocsing? Did you provide for those?

A No.

Q You saw Sorenson when the column reached the place where you had provided quarters, is that correct?

A Yes, in St.Sebastian.

Q What did Sorenson tell you at that time?

A He didn't say anything much. He looked over the sick prisoners and had them driven up here (indicating) and told Philip to drive in the direction of the column. He said that various ones had bad feet and he should take the car along and should pick up the people with the bad feet and should bring them back here to the quarters.

Q How much time elapsed between the arrival of Sorenson and the arrival of the column in St.Sebastian?

A It must have been around two hours.

Q Did you go back to see the column at that time?

A No, I didn't pay any more attention after I turned the sick prisoners over to him. He had Sendel drive the sick prisoners up here (indicating) and he had Sendel drive in the direction of the column. Then I had to take care of some hay.

Q How long did the column remain in St.Sebastian?

A On May 1 between 5:00 and 6:00 o'clock in the morning the column left St.Sebastian. Between the 25th and the 1st of May they were still there.

Q What were you doing during that time?

A I stayed in my quarters and prepared these things that were there for loading. When Sendel came back with the truck I

helped load the things on the truck then we drove after the column.

Q You drove behind the column?

A Yes.

Q What did the prisoners do during that period from April 25 to May 1?

A They were resting and could do what they pleased.

Q Has the column moved at all during that period?

A I don't understand.

Q Has the column advanced or moved back during that period from the 25th of April to the 1st of May?

A No,no, no. On the 29th Sorenson and Philip took a motorcycle and went off to Muehldorf. They got an order to come to Muehldorf to the column.

Q Who lead the column?

A Sorenson.

Q Sorenson had gone on ahead to Muehldorf, had he not?

A No, he came back in the evening of the 30th on his motorcycle and he brought this order with him.

Q Why did he go to Muehldorf?

A In order to get new orders and find out where we were supposed to go because we didn't know which way to turn.

Q From whom did he receive the new orders?

A I don't know. At any rate there were officers there in Muehldorf and they knew about the orders.

Q Who was in charge of the prisoners while Sorenson was away?

A Schoenbert.

(Fahrnbauer-cross)

Q You had nothing to do with the column of prisoners?

A Nothing at all.

Q Then the column marched off on the 1st of May and you rode off behind them and passed them on the way?

A Yes, I passed them.

Q You went ahead as far as Aigen and remained there how many days?

A I left Aigen on the 4th in the morning.

Q You were there from the 1st to the 4th of May, is that correct?

A Yes.

Q Did you provide quarters for the column at Aigen too?

A No, because I didn't know anything about the column. We drove in the direction of Alt Getting and then we couldn't drive in there. Then we drove off to the right.

Q When you left St.Sebastian did you receive any orders from Sorenson?

A I got the order to find quarters in Alt Getting.

Q You were unable to get quarters in Alt Getting, is that correct?

A No. I had got the quarters but then the American tanks came.

Q Did you not just say that you were unable to get into Alt Getting because it was a hospital town?

A Yes.

Q Did you make an attempt to get quarters elsewhere?

A No, because the tanks came. I was five hundred meters away from them.

Q Did you make an attempt to go back to Sorenson and tell him you didn't have the quarters?

A I had already sent Philip away on the motorcycle to spread the word that I had gotten quarters there.

Q That you had gotten quarters where?

A Three or four kilometers outside the town of Alt Oetting, near the Inn River upstream.

Q Did you not say those quarters were taken away by troops?

A These troops had already taken over the billets. They were already living in them. They had done it without getting permission from the mayor.

Q Then you were unable to use the quarters you had procured, is that correct?

A They probably would have made room for us but at that moment shooting started and the tanks came.

Q Did you make any attempt to report back to Sorenson that you were not able to procure the quarters he wanted?

A It wasn't possible any more. It was impossible to do that. The tanks were five hundred meters distant from us then.

Q It was possible for you to go to Alt Oetting, was it not?

A Yes, we had cover. We drove off to the left.

Q Did you make any attempt to rejoin the column or find out what happened to it?

A No, I had no more idea about the column any more. We were cut off from the column.

(Fahrnbauer-cross)

Q You made no attempt to contact them?

A No.

MR. BERKOWITZ: No further questions.

LT. HALL: No redirect.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL SKIELVID:

Q Do you know how many prisoners were in your original transport? That is, in the transport that moved out just ahead of you?

A My transport?

Q Yes, the transport that went out ahead of you from Plattling?

A You mean our prisoners on the foot march?

Q Yes, the ones under the supervision of Sorenson.

A Yes, it was somewhat over three hundred but I can't tell you for sure because he didn't tell me anything, he didn't say a word to me about it and I didn't count them.

LIEUTENANT COLONEL SKIELVIG: Mr. Velte, I want to clear up one question. In this man's particular dialect is there very much difference between "go by the barn" and "by the barn"?

INTERPRETER: There is a great similarity, sir.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q Fahrnbauer, who is this man Philip?

A Philip was a non-commissioned officer, a sergeant.

QUESTIONS BY COLONEL JACKSON:

Q I want to take up that "go by the barn" and "by the barn". Did you say, "I saw prisoners go by the barn", or "I

(Fahrnbauer-court

saw prisoners when I went by the barn"?

A What I meant to say was this: I saw prisoners inside the barn and I saw prisoners outside the barn running around the barn.

QUESTIONS BY THE LAW MEMBER:

Q Are you talking about the sick prisoners who accompanied you or about the main body of prisoners?

A They were prisoners from the big column. The sick prisoners were in Oexing. They weren't up to that spot yet.

Q You are also talking about the main body that you saw at St.Sebastian, is that correct?

A Yes, the ones that went away with Sorenson.

QUESTIONS BY LIEUTENANT COLONEL SMILY:

Q Fahrnbauer, who was the senior SS officer at Plattling?

A There weren't any SS officers, only technical sergeants.

Q Non-commissioned officers?

A There were three of us technical sergeants.

Q Do you know who was the senior?

A Sorenson had the highest. He was the senior.

Q Who was next?

A I was army. The other one also was army. Sorenson was SS.

Q Who was next to Sorenson?

A All three of us were technical sergeants.

Q You don't really know who was next to Sorenson in rank, do you?

A No, we were both the same. We were both of the same age

(Fahrnbauer-court)

and we had the same rating.

Q What orders did Sorenson give you just before you left Plattling? What instructions did you get from Sorenson?

A I should drive to Eggenfelden and look for billets there and should take the baggage and food along and the sick prisoners.

Q In other words, your job was to provide billets and rations, is that correct?

A Yes.

Q What means of liaison did you have with your commanding officer?

A We had just made the agreement that I would take a look around in Cesing and to find billets there and spend the night there. I should bring flour and bread there.

Q What I am trying to find out is what means you had to contact Sorenson to tell him you had billets for him.

A After Eggenfelden Sorenson had sent Philip away with the car and I left the message at the mayor's office that if a technical sergeant arrives and asks about me that they should tell him I have billets in such and such a place.

Q What I am trying to find out is: was it incumbent on you to keep in touch with Sorenson or was it incumbent on Sorenson to keep in touch with you?

A The only agreement we made was that after the quarters had been acquired we would leave a message there at the mayor's house and the one who brought the transport in would ask for information and find out where the billets were.

Q Weren't you interested enough to let your commanding

(Fahrnbauer-court)

officer know you had obtained billets for him?

A I did that in Alt Cetting. I sent Philip back because I was interested in seeing to it that they found out where the billets were.

QUESTIONS BY THE PRESIDENT:

Q Fahrnbauer, how were you armed during the evacuation march?

A I?

Q Yes, you.

A I wore a pistol.

Q Did you ever have occasion to use that pistol during the course of the march?

A No, I didn't have any reason to use it.

QUESTIONS BY COLONEL JACKSON:

Q At Plattling who could give you orders?

A You mean what kind of orders Sorenson gave me?

Q No. Who besides Sorenson could give you orders that you would have to obey?

A Nobody else.

Q Then you were next in command, is that it?

A No.

Q Who was second in command?

A There wasn't anybody there.

Q If Sorenson had been killed who would have been in command?

A Then somebody would have had to step in, either I or Mozadz. We were the next highest.

(Fahrnbauer-court)

Q Who was the next highest?

A Mozads.

QUESTIONS BY LIEUTENANT COLONEL SKIELVIG:

Q When you went to the mayor in each of these towns to request rations and quarters, for how many men did you request rations and quarters?

A I asked for four hundred or four hundred fifty but I never actually got it. We didn't get anything from the mayor. That didn't work out.

Q Where did you get your rations?

A We got food in Plattling. Besides that we had several bags of flour along with us and we baked our own bread in St. Sebastian.

PRESIDENT: Are there any further questions by the court? Apparently not. Redirect?

MR. HALL: Nothing, sir.

PRESIDENT: Prosecution?

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q When did Sendel and Philip leave you?

A Philip was sent back to meet the column on the 1st of May and I didn't see him any more and Sendel and Guth went away on the 3rd. They left Aigen on the 3rd and I didn't see them any more.

Q In response to a question by a member of the court you stated Sorenson ordered Sendel and Philip to leave you. When was that?

(Fahrnbauer-cross)

A He didn't tell them to leave me. He told them to go ahead and meet the column and load up the soldiers who had bad feet and they should bring them back into the new billets.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1500 hours.)

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(Whereupon the court reconvened at 1630 hours.)

PRESIDENT: Court will come to order.

MR. MERKOWITZ: If it please the court, may the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Minter who are absent on business of the prosecution, all the members of the defense are present except Colonel Wilson and Mr. O'Connor who are absent on business of the accused. All the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Watzke and Lipinski, who are sick in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

If the court please, I was asked to procure certain information for the court at this time. If the court will bear with me, I will have the information the first thing tomorrow morning at the session at that time.

PRESIDENT: The court directs Mr. Merkowitz that you have that information for the court tomorrow morning.

MR. MERKOWITZ: Yes, Sir.

PRESIDENT: Continuation of cross.

AUGUST FAHRNBAUER, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. MERKOWITZ

Q Now, Mr. Fahrnbauer, in reply to a question by Colonel Smyly, you stated that at Eggenfeld Soronson

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(Whereupon the court reconvened at 1530 hours.)

PRESIDENT: Court will come to order.

MR. BERKOWITZ: If it please the court, may the record show that all the personnel of the court are present, all the personnel of the prosecution are present with the exception of Colonel Denson and Mr. Winter who are absent on business of the prosecution, all the members of the defense are present except Colonel Wilson and Mr. O'Connor who are absent on business of the accused. All the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Watzke and Lipinski, who are also in the hospital and whose interests are being taken care of by their counsel.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

If the court please, I was asked to procure certain information for the court at this time. If the court will bear with me, I will have the information the first thing tomorrow morning at the session at that time.

PRESIDENT: The court directs Mr. Berkowitz that you have that information for the court tomorrow morning.

MR. BERKOWITZ: Yes, Sir.

PRESIDENT: Continuation of cross.

AUGUST FALKENALLE, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (CONTINUED)

QUESTIONS BY MR. BERKOWITZ

Q Now, Mr. Fahrnbauer, in reply to a question by Colonel Smyly, you stated that at Eggenfeld Sorenson

2sp had sent Sendel and Filip away with the car.

A Yes.

Q How long did they remain away?

A I can't tell you exactly. It could have been half an hour -- at the most half an hour.

Q Now, you stated that that was done in order to maintain liaison with Sorenson.

MR. HALL: No. The witness didn't state any such thing. I object to that rendition of the evidence. I object to the question the way it's phrased as not being a proper summary of the evidence.

PRESIDENT: The reporter will repeat the question please.

(Whereupon the question was read by the reporter.)

MR. BERKOWITZ: If it please the court, the question of Colonel Smyly was: How did you maintain liaison with your commanding officer.

PRESIDENT: Objection overruled, but at the same time, Mr. Berkowitz, the court feels you should rephrase your question. There may be some misunderstanding about the term you used.

Q Now you stated that at Eggenfelden Sorenson had sent Sendel and Filip away with the car and you stated that in reply to a question as to the manner in which you maintained liaison with your commanding officer.

A My superior was already there and so was Sendel and the liaison was maintained by leaving a message at the Mayor's office in Eggenfelden.

Q Well, what did Sorenson send Sendel and Filip away for?

(Fahrnbauer - Cross)

Sap

A In order to pick up the prisoners who had bad feet and who had remained back.

Q And what did you do durin that time?

A During this period of time I visited the quarters which had been picked out for us together with Sorenson and the officer of the patrol and we tried to find out whether or not the quarters were good.

Q Now, quarters for how many prisoners were to be procured by you?

A I was supposed to secure quarters for 400 persons altogether -- that is, including guards and the privates from the Army and the prisoners.

Q Now, who told you to get quarters for 400?

A That was my own estimate.

Q On what did you base that estimate?

A Well, there were 54 members of the Army, and I had 30 prisoners with me and more than 300 prisoners had left Plattling.

Q Did you discuss with Sorenson the numbers of people who were to be transported before you left Plattling?

A No.

Q He left that to you?

A Yes, he left that up to me.

Q Now, you were to leave a message at the Mayor's office to tell him where the quarters were procured, is that correct?

A Yes, that was an agreement which we had made in Plattling already that whatever I was supposed to make quarters and where I did make quarters, I would leave a note with the Mayor to the effect that I was able to

4sp obtain quarters at such and such place.

Q That was to be with the Mayor of the place where you got the quarters, is that correct?

A Yes. I got some quarters in Eggenfelden but there was another Mayor in St. Sebastian. However the Mayor in Eggenfelden notified Sorenson that we had gotten some quarters in St. Sebastian.

Q Now, what were the nationalities of the sick prisoners on the truck?

A I can't tell you that. I didn't check it. There were Germans among them and Frenchmen and Jews -- various nationalities.

Q Now, you say Sendel picked up some sick prisoners after you passed Eggenfelden. How many sick prisoners did he pick up?

A I can't tell you because he took them to the quarters immediately.

Q Which quarters?

A But unfortunatel that isn't shown on this sketch, if you want to come over here and take a look at it. That is St. Sebastian. Over here on a hill were three farm houses (Indicating) and that is where the barns were (Indicating) and they were taken up to this place immediately.

Q Did you see those prisoners?

A No.

Q Did you visit those barns?

A Before the prisoners together with Captain Sorenson g t there.

Q Is that a different place than the place where the prisoners of the column were quartered?

(Fahrnbauer - Cross)

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A All the prisoners were quartered there.

Q Now, what happened to these sick prisoners who were picked up by Sendel after you left Eggenfelden or after you left St. Sebastian?

A Left St. Sebastian? That can't be right.

Q Well, you said they were put in three barns near St. Sebastian.

A The prisoners and the guards were quartered in these two barns over here (Indicating).

Q And what happened to them after the prisoners moved out of these three barns?

A You mean the date?

Q Yes . On what date did they leave?

A It was on the 1st of May when the prisoners left these barns over here -- on the 1stof May between 5 and 6 o'clock in the morning.

Q Now, what happened to the sick prisoners who were in those barns on the 1st of May when the column moved out?

A The sick prisoners remained in these barns and they were supposed to be taken to Muhldorf as soon as we reached Muhldorf.

Q How many of those prisoners were there? How many of these sick prisoners were left behind?

A I can't tell you because I didn't have an order.

Q Did you see those prisoners?

A No.

Q What did you mean you didn't have an order?

A I was supposed to get my orders as soon as the

(Fahrnbauer - Cross)

6sp column was in Muhldorf. Then the sick prisoners were supposed to be taken to Muhldorf too.

Q You mean you were to go to Muhldorf and then come back for the sick prisoners?

A The truck was supposed to go back from Muhldorf to the place where the sick prisoners were and pick them up, but in the meantime the American tanks arrived and cut us off.

Q Now, you were going to Muhldorf to pick up orders to bring back these sick prisoners. Do you know how many there were?

A No.

Q You were to pick up orders concerning prisoners without even ascertaining the number.

MR. MALL: I object to the rendition of the evidence in the question as bearing an insinuation that his sole purpose was to go to Muhldorf to pick up orders to go back to pick up sick prisoners and the witness has not so testified.

MR. BERKOWITZ: May I plead?

PRESIDENT Make it short and concise.

MR. BERKOWITZ: I am merely trying to clarify what the prisoner has testified to and to verify to the facts whether they are correct as testified.

PRESIDENT: Objection overruled.

A No, I didn't know that.

Q Now, you took along certain number of sick prisoners in your truck, did you?

A No.

Did you take any of the sick prisoners to Aigen with you?

(Fahrnbauer - Cross)

7sp

A No.

Q Did you leave behind in these three barns the sick prisoners that you had taken from Plattling?

A Yes, they were left behind too.

Q Did you come with any prisoners at all to Aigen?

A No.

MR. BERKOWITZ: No further questions.

PRESIDENT: Redirect?

MR. HALL: Nothing, Sir.

PRESIDENT: Questions members of the court? Apparently none. Is the defense finished with this witness?

MR. HALL: Yes, Sir.

PRESIDENT: Now, Fahrnbauer, do you wish to make any statement to the court or any explanation at the present time?

ACCUSED FAHRNBAUER: Yes.

PRESIDENT: Proceed but make it concise and to the point.

ACCUSED FAHRNBAUER: What statement or explanation do you mean?

PRESIDENT: At the present time, Fahrnbauer, the court has given you an opportunity to make any further statement that you see fit to the court. At the same time the court will give you an opportunity to make any explanation of anything about which you have testified or anything else you wish to say or an explanation of anything about which anybody else has testified to.

ACCUSED FAHRNBAUER: There is something I would like to clarify. I don't think that the court knows

8sp exactly how those things happened.

In the course of my testimony I stated that Filip and Sorenson drove to Muhldorf on the 29th in order to receive orders from higher headquarters, with reference to the place where the prisoners were supposed to go -- that is, where the prisoners and we were supposed to go.

In the evening of the 30th Sorenson returned together with Filip and he called us together and told us that we and the prisoners had to march to Muhldorf. The sick prisoners were supposed to remain in their quarters -- that is, if the quarters are safe until the marching column reached Muhldorf. From there the sick prisoners were supposed to be picked up on trucks, but due to the fact that in the meantime American troops had approached, it was no longer possible to get to Muhldorf and I don't even know whether or not the marching column arrived in Alt Oetting.

As I already stated, around 10 o'clock I sent Filip back on his motorcycle and ordered him to tell Sorenson that I had secured quarters about two or three kilometers outside of Alt Oetting. Filip went to meet the column on his motorcycle and in the meantime it so happened that the American tanks arrived. The tanks were approximately 500 meters away from us and all the tanks were firing. There was a plain, flat country and the tanks were arriving all over the place firing. I then went back to the car, had the baggage loaded on the car and drove into Alt Oetting. There were two guards in Alt Oetting, two tech sergeants of the Army and they did not allow us to enter the city. They stopped

Sep all military vehicles and cars and told them to go across the Salzach River. A tanks were on their way to Alt Oetting and it could have been around 10:30 when the tanks reached Alt Oetting. And as I already said before, it was no longer possible for us to get into the city of Alt Oetting and that was not allowed to us to enter the city and so we drove off in the direction of Burghausen. From Burghausen we went to Aigen. There I wanted to wait and to see how the general situation would develop.

In the evening on the 1st of May I was told by the youth of the village of Aigen that American troops had already liberated the prisoner of war camp in Pirach which is about three to five minutes distance from Aigen and that they had taken the guards along, and that they had shot to death the camp commandant. I then went to the house of an railroad official in Pirach in order to find out whether those statements were true and the railroad official told me yes, that was true. I went back to the house of the farmer Bohnauer and talked the matter over with Guth and Wendel and I told them I really don't know what to do now. We waited until the next morning and towards 9 o'clock the main body of the tanks already arrived and drove down the road coming from Salzburg Tittmoning and they were on their way to Burghausen. There was no possibility to move out of the place in a car. Thereupon I discussed the situation with Bohnauer and I told him that I would leave the car and the weapons in his place and then he should turn it over to the Mayor and I told my other comrades we dissolve the unit. There is no possibility for us to get back to the

10sp column and everybody should see to it how he would get through.

I then tried to get more detailed information and when I listened to the radio I found ut that American troops had already arrived in Munich and also in other places and I heard that the whole country was already occupied. Then I made the suggestion to my comrades that we would go home and everybody all by himself and no more than two together.

PRESIDENT: Do you have anything else to tell the court, Fahrnbauer?

ACCUSED FAHRNBAUER: No, that is all, except this. Maybe the court would like to ask another question.

PRESIDENT: The court understands that that is all you have to say to the court at the present time, is that correct?

ACCUSED FAHRNBAUER: Furthermore I would like to tell the court that I never shot anybody and the statements of the prosecution witnesses are not true either.

PRESIDENT: The witness will be excused and resume his position in the dock.

(Whereupon the witness was excused and resumed his seat in the prisoner's dock.)

MR. HAIS: If the court please, I offer in evidence Defense Exhibit 33, being a blue card purporting to represent the date the accused Fahrnbauer arrived in Nersoning.

PRESIDENT: Any objection on the part of the prosecution?

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MR. HAIT: If the court please, I offer in evidence Defense Exhibit 33, being a blue card purporting to represent the date the accused Fahrnbauer arrived in Mersching.

PRESIDENT: Any objection on the part of the prosecution?

llsp

MR. BERKOWITZ: No objection, Sir.

MR. HALL: And I offer in evidence Defense Exhibit 33-A, that being an English translation of D-33.

PRESIDENT: Any objection on the part of the prosecution?

MR. BERKOWITZ: No objection.

PRESIDENT: Subject to any objection on the part of any member on the court, the court will accept in evidence Defense Exhibit Number 33 and 33-A.

(The documents heretofore marked Defense Exhibits Nos. 33 and 33-A for identification were received in evidence as Defense Exhibits Nos. 33 and 33-A, are attached hereto and made a part of the record.)

MR. HALL: And I offer in evidence Defense Exhibit 27, the same being a sketch used in connection with the testimony pertaining to the case of the accused Fahrnbauer. I withdraw that offer. It has previously been offered and accepted.

PRESIDENT: The court will take a few minutes to examine Defense Exhibits 33 and 33-A.

Defense proceed.

MR. HALL: If it please the court, at this time as a matter of convenience among the defense counsel we will proceed with testimony in favor of accused represented by Dr. Wacker.

PRESIDENT: Dr. Wacker.

DR. WACKER: I call Loni Barth as the first witness who is going to testify on behalf of the accused Number 3 and Number 15. I would like to state in this connection that I have to call this witness out of order due to the fact that she is under medical treatment and has to return to her home.

12sp

PRESIDENT: The court understands, Dr. Wecker, and the court will approve of that matter.

LONI BARTH, called as a witness by the defense, being first duly sworn, testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WECKER:

Q State your full name please.

A Loni, Lena, Barth.

Q How old are you?

A 25 years old.

Q Are you married?

A Yes.

Q Any children?

A No.

Q Where is your residence?

A Berbersdorf near Heinichen in Saxony.

Q Where are you at the present time?

A At the present time I am in Dachau and regularly I am in camp Ludwigsburg.

Q Are you being held prisoner there by the Americans?

A Yes.

Q Why?

A I had been drafted for service in the SS for five months.

PRESIDENT: The court at this time desires to advise you that if you should be asked any question at any time that might tend to incriminate you, that you have the right to ask the court to refrain from answering that question. Do you fully understand?

WITNESS BARTH: Yes.

1 13sp

Q Since when are you being held prisoner?

A Since the 13th of June 1945.

Q Have you been put before a court or have you been convicted in the meantime?

A No.

Q What are you accused of?

A I don't know of anything.

Q What is your profession?

A Housewife.

Q Were you a housewife during the war?

A No, I was drafted for servant in the Fromme plant in 1941.

Q Where are the Fromme works?

A In Heinichen, Saxony.

Q What kind of factory is that?

A Motor vehicle factory.

Q When you say you have been drafted for service, what do you mean by that?

A Every German man and every German woman had to help and to work during the war and that is why I was drafted for service.

Q By which office was this draft ordered?

A By the Labor Office.

Q What did your duties consist of in this plant?

A It was my duty to check the tools.

Q And did you have the same duties throughout the war?

A No, In September 1944 I was drafted for service in the SS.

Q What was the reason for that?

14sp

A When the women prisoners were assigned to our factory and since we were familiar with the work, we were assigned to them.

Q Please explain to the court in detail whether you joined the SS voluntarily or whether you had been drafted by the labor office.

MR. BERKOWITZ: Objected to as leading.

DR. WACKER: I withdraw the question.

Q How did you get into the SS?

A Well, some people of the SS came around and we had to do it. We weren't asked. We just had to do it.

Q Was that done with the labor office as well?

A Yes.

Q How long have you been in the SS?

A From September 1944 until the beginning of April 1945.

Q Do you know Major Berger?

A Yes.

Q Please take a look in the courtroom and see if you can recognize him.

A (Indicating).

DR. WACKER: Let the record show please that the witness identified the accused Number 3 as being Berger.

Q Since when do you know Major Berger?

A From the 16th of April 1945.

Q Was that the first time you met him?

A Yes.

Q How did you get to know him?

15sp

A I had to go to Flossenburg with two other women due to the fact that the factory was under the supervision of Flossenburg.

Q Which factory?

A Fromme factory.

Q And who were the two women who accompanied you to Flossenburg?

A Miss Hildegarde Lippmann and Mrs. Gertrude Becker.

Q What was the reason for your trip from the Fromme work in Heinichen to Flossenburg?

A We were to pick up some kind of orders. I don't know which orders.

Q Who told you to go to Flossenburg?

A The camp commandant and the commander of that camp.

Q Did you receive the orders in Flossenburg?

A No.

Q Please describe your meeting with Berger.

A From our place we first went to Eger and from there we couldn't proceed. Then we drove to Floss in a car. In Floss we found out that the camp was already being evacuated, but nevertheless we went to Flossenburg and there was a transport at the railroad station at Flossenburg and we would have liked very much to return with that transport.

Q What did you see at the railroad station in Flossenburg?

A A transport of prisoners.

Q Had the prisoners already occupied the railroad cars?

(Barth - Direct)

16sp

A Yes.

Q Now, what did you do at the railroad station in Flossenburg?

A I went to see a Captain Beblo and asked him to take us along, but he did not do it.

Q What did you do after that?

A A major came along the train and since he was a high ranking officer, I asked him to take us along and he said, "Of course, my wife is in there too and you can come along".

Q Who was this major?

A Major Berger.

Q Did he introduce himself or how did you find out what his name was?

A He introduced himself when he introduced his wife.

Q What happened after you received permission to go on this train?

A We got into the train and shortly thereafter the train left.

Q What do you mean -- when we got in the train?

A The transport.

Q Didn't you say a short while ago that the prisoners were already in the train?

A Yes. Well, the two women and I got into the train. The others were there already.

Q In what kind of a car did you get in? Was it a passenger car or a box car?

A It was a box car

Q Who was in this car?

17sp

A Mr. Berger, his wife and two children, two prisoners and an SS man. I don't know what his rank was -- corporal or something like that and some other persons but I really don't remember who it was. I think it was a woman and two children.

Q Do you know the names of the prisoners?

A Yes. Opplach and Dalke.

Q When did the train actually leave?

A I don't know the time. It was early in the morning.

Q Do you know the date?

A 16th of April.

Q Which year?

A 1945.

Q Did I understand you correctly that was at the railroad station at Flossenburg?

A Yes, that is right.

Q Where did the train go?

A To Floss.

Q Did the train stop there?

A We were still travelling when we noticed that low flying planes were above us and then the train stopped at the railroad station in Floss.

Q What happened at the railroad station in Floss?

A We jumped out of the cars due to the fact that the planes were strafing us.

Q What do you mean "we"?

A We who were in the car and I also saw that prisoners and guards were looking for shelter, some cover.

Q Please describe to the court exactly who got

18sp out of the cars and who remained in the train.

A Nobody remained in the train. We went in the room of the railroad station, the building and the last one to enter was Mr. Berger.

Q How about the prisoners and the guards? What were they doing?

A When I jumped out of the car, I only saw that prisoners and guards were looking for shelter.

Q What did Berger do during the entire time?

A When Berger came into the room he went over to the telephone and made a telephone call.

Q Do you know whom he called?

A No.

Q Do you know what he said?

A Approximately, yes.

Q Please repeat it. Tell us what it was.

A He ordered medical attention and some medicines since several persons had been injured in Floss.

Q Did you see personally if there were dead and injured persons?

A I didn't take a look around when I entered the room.

Q How long did you stay in this room?

A First I have to explain something else. When Mr. Berger made the phone call, he said that he was not going to proceed with his transport due to heavy attacks of low flying planes.

Q How long did the air raid last?

A I don't know exactly -- about 20 minutes to 30 minutes.

Q What did you do after the air attack?

(Barth - Direct)

19sp

A The medic arrived and the wounds of injured prisoners were dressed. I myself helped in bandaging one of the prisoners.

Q Were there any death cases?

A Yes.

Q What became of the dead bodies?

A I saw that all the dead bodies were put together.

Q Were those prisoners or were those guards or officers?

A They were prisoners.

Q What did Berger do during this period of time?

A He went around and took care of everything and saw to it that they were sent either to a hospital or back to Flossenburg.

Q Did you notice any shooting done by the guards?

A No.

Q What happened then?

A Locomotives were changed and we were allowed to get into the train again.

Q Did everybody get into the train?

A Yes.

Q Did the same persons get into the same cars?

A Yes.

Q Did the train then leave?

A It was like this. I took a seat next to a door, the other door and Mr. Berger asked one of the guards why do you have your rifle in your hand. Don't you know no shooting is to be done around here?

20sp

When was that? Before the train was still standing at the railroad station in Floss at that time?

MR. BERKOWITZ: If it please the court, all these questions have been of a leading nature. I have hesitated to arise but I object to it at the present time. The witness has been led continually and I object to this line of examination, his manner of examination.

DR. WACKER: I withdraw the question.

PRESIDENT: Mr. Berkowitz, the court appreciates the fact that Dr. Wacker is having a little difficulty in eliciting testimony from this particular witness. Under those conditions, the court would allow more leeway than usual.

MR. BERKOWITZ: I have refrained from objecting heretofore.

PRESIDENT: The court will consider an objection to any particular question. Proceed.

QUESTIONS BY DR. WACKER (CONTD)

Q Where was that?

A In Floss.

Q Was the train still standing in the railroad station?

A Yes.

Q Please explain to the court what the situation was and explain how it came that Berger was in the train already and obviously one of the guards was still outside the train.

A I assume that he went over to the car where he belonged.

Q Please describe this guard. What did he look like?

(Barth - Direct)

21sp

A I can ot describe him because I didn't see him.

I think you misunderstood me. I don't want to describe his person. I would like to have a description of his uniform.

MR. BERGITZ: If it please the court, the witness has already answered that she didn't see him. Therefore I object to the question.

DR. WACKER: I think the witness understood that she was supposed to describe the face of the guard. I didn't want a description of the face of the guard.

PRESIDENT: Objection overruled. Proceed.

(Thereupon the question was read by the reporter.)

A You mean the uniform of the guard? I didn't see him.

Q How do you know there was a guard?

A Because only guards were carrying rifles.

Q How did Berger address the guard?

A Take your rifle around your shoulder or something to that effect. I really can't repeat it word for word.

Q And what did he say after that?

A Do you know of any order that no shooting is to be done around here?

Q Was that all that Berger said?

A Yes.

Q What happened after that?

A The train proceeded towards Weiden.

Q What happened in Weiden?

A There was another air attack in Weiden but nothing happened.

Q Did the train then proceed?

22sp

A No, the train then was put on to different tracks and the engine left.

Q What happened then?

A We stayed there for an entire day.

Q And then?

A And then we drove back to Welden.

Q And then what happened in Welden?

A I think there was another air attack there but nothing happened.

Q Anything other than that take place in Welden?

A No.

Q Where did you then go?

A From Welden we went to Luhewiltenau.

Q What happened there?

A We again were attacked by planes in Luhewiltenau but only the engine was destroyed.

Q Please tell the court again how you got there, how you drove there, in which car and who else was in the car.

A Mr. Berger and Mrs. Berger and their children were in my car, myself, Miss Hurtmann and two prisoners, an SSman and the two women who accompanied me and several others.

Q What happened in Luhewiltenau?

A Well, what was there in Luhewiltenau? Several escapes took place.

Q From where did people escape?

A In Luhewiltenau.

Q From the train?

A The prisoners were allowed to sit down around the train.

(Barth - Direct)

23sp

Q Was the train standing or moving or how was that?

A It was standing because the engine had been hit.

Q By what?

A By planes.

Q Please explain that to the court up to now you didn't say anything about an air raid in Luhewiltenau.

A Yes, I said that the engine had been hit -- no, that wasn't hit, that was Weiden -- what you were talking about -- no, no.

Q Was the train standing in Luhewiltenau?

A Yes.

Q You were talking about escapes. Please tell us the details.

A There were woods on the right and on the left hand side in Luhewiltenau and some of them tried to escape.

Q Did you see that yourself?

A Yes.

Q Were there any guards posted?

A Yes.

Q Did they do any shooting?

A No.

Q What happened then? Did you move on? Did anything else happen in Luhewiltenau?

PRESIDENT: Just a minute, Doctor.

(Discussion off the record.)

Q Where did you go from Luhewiltenau?

A To Schwarzenfeld.

Q Were you going to Schwarzenfeld by the same

24sp means as before, same means of transportation?

A Yes.

Q And what happened at Schwarzenfeld?

A We -- that is, the persons in the car of Mr. Berger decided to go to a restaurant to have a cup of coffee.

Q Did you actually go there?

A Yes.

Q Did Mr. Berger come along?

A Yes.

Q And what happened to the trainful of prisoners?

A Mr. Berger called Captain Beblo.

Q Where did he call Beblo?

A Next to the train which we had taken.

Q You mean at the railroad station Schwarzenfeld?

A Yes.

Q Did Beblo come?

A Yes.

Q Did you have a chance to overhear the conversation between Berger and Beblo?

A Yes, we were standing outside the car when Captain Beblo arrived and so I had a chance to hear the conversation.

Q Please tell the court what you heard.

A Mr. Berger turned the transport over to Captain Beblo.

Q I don't want any conclusions here. I would like to know what one said and what the other one said. What did Berger say and what did Beblo say?

A Mr. Berger said to Captain Beblo that he was

25sp

turning the transport over to him due to the fact that he wanted a few days rest, that he didn't sleep for several days.

Was that all Berger said?

A And he told him to inform the guards that they were not to do any shooting.

Anything else he said?

A Yes.

What was it?

A Yes, I said.

What else did Berger say to Sablo?

A I didn't hear anything else.

Did Sablo answer anything?

Well, he said yes and that was all.

What happened then?

A We went over to the restaurant to have a cup of coffee.

What do you mean "we"?

A Mr. Berger, his wife, the children, myself, Miss Hurtmann and two prisoners.

How long did you stay in this restaurant?

A I stayed there for about 30 minutes. I left a little earlier.

Where did you go?

A I wanted to go back to the transport.

Did you actually return to the transport?

A When I got to the railroad station an air alarm was sounded and the planes were approaching already.

Please tell the court what took place during the air attack.

A I saw that the planes were firing at something at the railroad station or near the railroad station and I assured that that was our transport.

Were the prisoners in the railroad cars at that time or where were they?

A I don't know that because I wasn't there.

Then you didn't see the train at all actually did you?

A I myself was lookin for shelter or cover at that time because one of the planes was strafing the street. There were several prisoners in the street who were runnin toward the houses. Apparently they were looking for shelter too. There was a large field in front of the houses and the prisoners lay down there, and I saw how some prisoners were hit, some of the prisoners who were lying in the field.

Q Were there any guards in this field, or were there any guards with the prisoners at all?

A There were no guards in the field but there were some at the railroad station. There was a group of about 30 or 40 prisoners on one side. The prisoners were standing and opposite to them several guards and I motioned to the prisoners who were standing on my right hand side to lie down so that they not be hit.

PRESIDENT: Court will adjourn until 9 o'clock tomorrow morning.

(Thereupon at 1700 hours the court recessed.)

26sp

A I saw that the planes were firing at something at the railroad station or near the railroad station and I assured that that was our transport.

Were the prisoners in the railroad cars at that time or where were they?

A I don't know that because I wasn't there.

Then you didn't see the train at all actually did you?

A I myself was lookin for shelter or cover at that time because one of the planes was strafing the street. There were several prisoners in the street who were runnin toward the houses. Apparently they were looking for shelter too. There was a large field in front of the houses and the prisoners lay down there, and I saw how some prisoners were hit, some of the prisoners who were lying in the field.

Q Were there any guards in this field, or were there any guards with the prisoners at all?

A There were no guards in the field but there were some at the railroad station. There was a group of about 30 or 40 prisoners on one side. The prisoners were standing and opposite to them several guards and I motioned to the prisoners who were standing on my right hand side to lie down so that they not be hit.

PRESIDENT: Court will adjourn until 9 o'clock tomorrow morning.

(Whereupon at 1700 hours the court recessed.)

CA/GI 13

First Duplicate Copy

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

Count

FLOSSENBURG

Pages 5646 - 5712 Incl.

Case No. .....

Prosecutor .....

*Summary
~~[illegible]~~ Military Court.
*General

Defence Counsel .....

Place DACHAU, GERMANY

Interpreter .....

Date 25 October 194 6

Reporter .....

0900 - 1700 hours

~~Members of Court~~

WITNESSES:

DONI BARTH

WERNER NOWITZKI

Accused FRIEDRICH BECKER, ET AL

Address ..... Sex ..... Age .....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence

- Imprisonment
  - Term .....
  - Beginning ..... 194.....
- Fine
  - Amount .....
  - To be paid before ..... 194.....
    or in case of default of payment to serve a *furtner term of ..... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

.....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority .....

.....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

In trial of

THE UNITED STATES Versus FRIEDRICH FICKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 17 JUNE 1946

25 October 1946 0900 - 1700 hours Pages 5646 - 5717 incl.

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
BARTH, LONI	5648	5662	5683	5688	5684
NOWITZKI, WERNER	5691	5699	5704 5711	5709	5708 5710

Ta 549 10-25-46
pls/1
Flossenburg

Camp Dachau, Germany
25 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0915 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Eisbusch, Wurst, Jakubith, Lipinski and Watzke, who are ill and whose interests are being taken care of by their counsel.

Any spectators in the courtroom who expect to be called as witnesses in this case will please leave the courtroom.

MR. BERKOWITZ: If it please the court, I have a report to make in compliance with the request of the court concerning the status of the record. The record is complete up to and including the 27th of September. From that date to the 10th of October the record has been typed and is presently being numbered and divided into proper groups of copies, and distribution of the record from the 27th of September to the 10th of October is promised for the beginning of next week.

PRESIDENT: Next week? When next week?

MR. BERKOWITZ: This coming week.

PRESIDENT: Monday?

MR. BERKOWITZ: All I can get is Monday, Tuesday, or Wednesday. Each page has to be numbered and only two people can work on it at one time. Up to the present time they have only had one and we have insisted that another be assigned to help in the collection and division of the notes as they are completed as the typing is

Ta 54g 10-23-46
pls/2

Completed so that perhaps by Tuesday we will have the notes up to the 10th. The notes from the 10th to the present time are in the course of typing and we are promised they will move out more speedily than heretofore.

MR. SIPE: The court appreciates the fact that this matter is a serious inconvenience to the court, to the prosecution, and particularly to the defense at the present time.

MR. BERGWITZ: It is a serious inconvenience to all of us and complaint has been made regarding the slowness of delivery of the record. It appears that one man who took the take on the 27th has been holding it up and the pages could not be numbered until that was completed. However, that block has been hurdled and the rest of the record will be forthcoming with greater speed than heretofore.

PRESIDENT: The last record that the court received to check included page 2712.

MR. BERGWITZ: We have been receiving quite a few after that.

PRESIDENT: That was the last page the court was given to check.

MR. BERGWITZ: There are other volumes ready and if the court hasn't received them, there is something wrong with the distribution. I believe the prosecution and defense have been receiving up until the 25th of September. About page 5026 is ready for distribution now and if the court has not been receiving it there is something wrong with the distribution of the record and I will check on that. However, when it was necessary to check on any specific point, a copy of the record was available. The prosecution appreciates it was necessary for the court to check the record and the last page was 2712.

Prior to that time had you been receiving daily copy of the record? Howwas that handled?

PRESIDENT: About once a week.

MR. BERKOWITZ: They would bring in a whole group of them?

PRESIDENT: That's right.

MR. BERKOWITZ: Colonel Denson will now check on that to see why the court has not been receiving their copies of the record.

PRESIDENT: I wish you would check into that, Mr. Berkowits, because that certainly will delay matters.

MR. BERKOWITZ: Certainly. Colonel Denson will check on that now.

(Whereupon Mr. Denson withdrew from the court)

I believed that the court was receiving it at the same time we were and they were up to the same point we were, that is, the 25th of April. I didn't know the court was that far behind in its set of the record due to the inefficiency of the front office.

PRESIDENT: The court will take a short recess and give the members of the court a chance to get their overcoats.

(Whereupon the court took a short recess.)

PRESIDENT: The court will come to order. Continuation of direct examination.

LONI BARTH, a witness, resumed the stand and testified further through an interpreter, as follows:

DIRECT EXAMINATION (continued)

QUESTIONS BY DR. WACKER:

Q Mrs. Barth, were there ever any death cases or persons injured during the air raid in Schwarzefeld?

A Yes, there were some death cases and some people were injured, too.

Q Can you estimate how many there were?

A No.

Q What happened to the dead and injured people?

A After the air raid I went over to the train and on the right and left hand side of the train I saw many dead people and injured people lying around. And shortly thereafter Mr. Berger arrived and told one of the SS men, one guard, to go into the City immediately and get some medical personnel. And the SS guard was supposed to bandage the wounds of the injured persons as well as possible.

Q Mrs. Barth, please speak up and speak so loud so all in the dock can hear you. Were the dead and injured prisoners, SS members, or civilians?

A I saw dead prisoners.

Q What happened then after the air raid? What became of the prisoner transport after the air raid?

A Some medical personnel arrived, it was sent by the City administration, and the wounds of the injured were dressed. I heard how Mr. Berger called Capt. Bablo and Capt. Sommerfeld and all the technical sergeants together.

Q Did you hear what he told them?

A No, that was over the restaurant.

Q Didn't you find out from any third person either what the contents of this conversation or discussion were?

A I stayed with this one SS man, he had also been injured, and he was lying in the train in the same car with me and shortly thereafter an SS technical sergeant arrived and talked to the SS men and I heard him say that the transport was supposed to be divided up and the march had to be continued on foot.

Q Please state in detail as far as possible, what this technical sergeant said to the other SS man. 1st Lt. Sommerfeld was supposed to take charge of the marching column and 1st Lt. Bablo was supposed to remain behind with the dead and with the injured. In addition to that the technical sergeant said in case some prisoners tried to escape, no shooting was to be done.

PRESIDENT: Just a minute. Will you verify the rank of that particular individual, Bablo?

Q What was the rank of Bablo?

A Captain or 1st Lieutenant. I always heard, Captain.

Q You were talking about a Sgt. Sommerfeld?

A 1st Lieutenant.

Q Will you be able to recognize this man, Sommerfeld, if you were to see him today?

A Yes.

Q Please take a look at the dock and see if you can find him there?

A Up there. (indicating)

DR. WACKER: Please let the record show that the witness identified the accused wearing No. 47 as the man, Sommerfeld.

Q You were talking about a technical sergeant, do you know what his name was?

A No.

Q Do you know the name of the SS man who was with you in the car?

A I think his name was Peets.

Q Was he just an ordinary SS man or did he have any rank?

A I think he was a corporal.

Q Was the matter handled in the way the SS Technical Sergeant told the SS men?

MR. PERKOWITZ: Objection to the question as leading.

PRESIDENT: Will the reporter read the last question.

(Thereupon the reporter read the last question.)

MR. PERKOWITZ: Further objection, it is unclear.

PRESIDENT: Objection sustained.

Q What became of the train?

A We who were in the car of Mr. Berger went over to the restaurant and I saw the prisoners get out of the car and after that I left.

Q Where did you go?

A Into the restaurant.

Q How long did you stay there?

A Mr. Berger was able to obtain a car and when this car arrived we got into it and left, proceeded on our way.

Q Who got into the car?

A The women who accompanied us and the two prisoners and Mr. Berger and the administration sergeant and Miss Nurtmann, and I think that was all.

Q Who were the women you were talking about?

A The wife of Mr. Berger and the two women who accompanied me to this place and the wife of the Technical Sergeant of the Administration.

Q Where was Capt. Bablo at that time?

A He had remained behind because he was supposed to stay with the wounded.

PRESIDENT: Speak up a little louder, interpreter, if you will.

Q Where was Capt. Sommerfeld at that time? I meant to say 1st Lt. Sommerfeld?

A He remained back on the train.

Q What became of the prisoners?

A I assumed that they were divided up, split up into different columns.

(Barth-direct)

Q Where did you drive in the car then?

A Mr. Berger told 1st Lt. Sommerfeld that he would drive ahead in the car and that they would meet in Neuenburg. He would go ahead in order to obtain some food and try to secure some food.

Q Did they actually go to Neuenburg?

A Shortly before Neuenburg we had a breakdown and we had to go on foot to Neuenburg, two kilometers, on foot.

Q Did you go to Neuenburg?

A Yes.

Q Please tell the court what happened in Neuenburg?

A We arrived in Neuenbur during the night and Mr. Berger woke up some family in the town and asked them where the mayor was. Then we went over to the hospital in order to spend the night there.

Q Did Mr. Berger accompany you?

A Yes.

Q What happened then, the next morning?

A We got up about 8:00 or 8:30 in the morning, I don't know the exact time, and Mr. Berger then went to see the mayor.

Q When you say "we got up" whom do you mean by "we"?

A Everybody who was in the car.

Q What did Mr. Berger do on this particular morning?

A I assumed that he went to see the mayor.

Q What did you do on this morning?

A We stayed there at the hospital.

Q And Mr. Berger?

A He left. At noon he came back and asked us women whether we would help to prepare the meat for the prisoners.

Q Did you do that?

A We went into a restaurant and there we saw the administration sergeant and had about 8 or 10 bags of potatoes there and I and two other women cut the bread into slices and prepared it with butter and luncheon meat.

Q Were you able to distribute the prepared meals and rations?

A An SS man arrived and told us that the prisoners would be at such and such a place, then Mr. Berger procured a few vehicles and the rations were loaded on the vehicles and then the vehicles left.

Q Please tell what happened next?

A They were able to obtain a vehicle, a horse drawn carriage, in order to go to Pfedding.

PROSECUTION: Excuse me one moment.

(Whereupon a conference with the defense and the president was held, off the record.)

PRESIDENT: The court will take short recess in place.

(Whereupon the court took a recess in place.)

PRESIDENT: The court will come to order.

QUESTIONS BY DR. WACKER (continued)

Q Why didn't they wait in Neuenburg until the prisoners arrived?

A Well, they were already there.

Q When did the prisoners arrive?

A Sometime in the afternoon, I don't know the exact time.

Q Do you know what column this was?

A No.

Q Don't you know who was in charge of the column?

A The column was under the command of Sommerfeld.

Q How do you know that?

A Because I heard of how he took charge of the column in Schwarzenfeld.

Q Did you see Sommerfeld in Neuenburg?

A No.

Q Did Berger have any conversation with an officer in Neuenburg?

A No, I don't know of any.

Q When did you leave Neuenburg?

A I don't know exactly. In the afternoon or the evening. I think it was the evening.

Q By what means of transportation did you leave Neuenburg?

A We were riding on a horse drawn carriage from Neuenburg to Rodding.

Q Please again explain how many you mean when you say "we".

A Mr. Berger's wife and children, two prisoners, the two women who accompanied me and myself, the Administration Serge nt, his wife and Mr. Berger.

Q You were talking about a Miss Nurtmann, wasn't she present anymore? What happened to her?

A No, she was present, too.

Q What then happened in Rodding?

A We, that is the two women and myself, then left the family Berger, went into a restaurant and got something to eat.

Q Where did Mr. Berger go?

A I know nothing about Mr. Berger, what became of him, what happened to him from then on.

Q I mean in Rodding itself.

A When I left I don't k ow what happened to Mr. Berger.

Q From this time on you didn't see Mr. Berger at all?

(Berth-direct)

A I later on saw him in Nedding when the advance troops of the Americans were pretty close to Nedding. We wanted to leave, that is, the two women and I. I saw Mr. Berger and Miss Kurtmann standing in front of the City Hall in Nedding. I asked Major Koegel whether he could not take us along, us three women, but he replied, "Girls, you see to it how you get along and how you get away from here."

Q Did you hear this conversation between Koegel and Berger?

A No.

Q What did you do then

A We stopped a car in order to catch a ride.

PRESIDENT: The court will take a half hour's recess.

(Whereupon the court, at 1000 hours, recessed.)

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Floss

Camp Dachau, Germany
25 October 1946

MORNING SESSION

(Whereupon the court reconvened at 1030 hours).

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter, who is absent on business of the prosecution; all the defense counsel are present; all the accused are present with the exception of Buddensieg, Olschewski, Oswald, Eisbusch, Wurst, Jakubith, Lipinski and Metzke, who are sick in the hospital and whose interests are being taken care of by their counsel.

The witness is reminded that she is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

DIRECT EXAMINATION

PRESIDENT: Continue cross-examination, Dr. Wacker.

QUESTIONS BY DR. WACKER:

Q Where did you go from Roding?

A From Roding we went to Straubing.

Q And where did Mr. Berger go to?

A I don't know. I heard from the chauffeur that the American advance panzer -- tank troops -- were already in Roding.

Q Then you separated for good from Mr. Berger in Rodin?

A Yes.

Q Did you hear or see anything of the prisoners in Rodin?

A No.

Q Did you see Mr. Berger in the meantime?

A No.

Q During the entire transport from Flossenburg to Rodin did any SS ever shoot at any prisoner?

A No.

Q Would you have had to see or hear about that if it had happened?

A I was there practically all the time. I certainly should have heard about it or seen it.

Q Did you hear Mr. Berger give any orders to his subordinates?

A I didn't hear any direct orders.

Q What do you mean when you say you didn't hear any direct orders?

A I only heard Mr. Berger say to this guard in Floss -- he was a guard who had his rifle in his hands -- "Don't you know that there has been an order put out that there won't be any shooting?"

Q Was that the only remark concerning an order that you heard Mr. Berger give?

A In Schwarzenfeld when Mr. Berger turned over the transport to Captain Balbo? I heard him tell Balbo that he should remind the guards again that there could not be any shooting.

Q Did you hear anything else?

A It is possible that there was another order but I cannot remember any other one.

PRESIDENT: Any further direct examination, Defense?

DEFENSE COUNSEL: The Court will examine this witness on behalf of the accused, Eb.

PRESIDENT: Proceed.

DIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL:

Q Mrs. Barth, during the evacuation from Flossenburg, did you come in contact with a former prisoner by the name of Ginchel?

A I did not have any direct contact with him.

Q What was the nature of your contact with him, if any?

A I saw Ginchel talking a few times to Mr. Berger.

Q Where did those conversations take place?

A I know for sure that he was there a few times in Schwarzenfeld.

Q During the time that you were in Schwarzenfeld did you see Ginchel at any time while the transport remained there?

A No. I saw him come to Mr. Berger in Schwarzenfeld and Mr. Berger said: "I sure wish this guy would leave me alone."

Q Was Ginchel alone at that time?

A No. Ginchel was always chasing some girl.

Q When did you hear this conversation with Ginchel that you have spoken about? What time of day?

A I saw Ginchel with Mr. Berger when the train arrived in Schwarzenfeld and we all got out.

Q When did you next see Ginchel again?

A I saw him again at noon when the food was giving out and this girl said she was going with Ginchel to get some food.

Q Did you know the girl?

A Yes.

Q Who was she?

A Miss Hildegard Lippmann.

Q When did you again see Ginchel?

A I don't know that. He went away again. The girl told me they were going to the housing colony there at the railroad station.

Q Did you see Ginchel at any time when the transport was ready to leave?

A No. I can't remember.

DEFENSE COUNSEL: Let the record show that the accused Lisbusch has returned to the dock.

QUESTIONS BY DEFENSE COUNSEL:

Q Do you think you could recognize Ginchel if you saw him again?

A Yes.

Q Will you look over the prisoners seated in the dock behind me and see if you can recognize the man you knew of as Ginchel.

(Whereupon witness identified the accused, No. 15 as Ginchel)

DEFENSE COUNSEL: Let the record show that the witness has identified the accused, wearing No. 15, as Ginchel.

QUESTIONS BY DEFENSE COUNSEL:

Q Did you see Ginchel again after you left Schwarzenfeld?

A No.

Q How many times prior to this conversation in Schwarzenfeld would you say you saw Ginchel?

A I don't remember exactly. I only know that the girl spoke about him in Seuselhead.

Q And what girl are you referring to.

A We are talking about the girl who was together with Ginchel in Schwarzenfeld.

Q That is all.

QUESTIONS BY DR. McCALL:

Q I would like to ask you a few questions now in regard to Sommerfeld #47. Please describe the physical appearance of Captain Adlbo.

A During the transport I constantly confused the two -- Sommerfeld and Adlbo.

Q Why? Why did you confuse them?

A They looked pretty much alike and I never knew whether it was Adlbo or whether it was Sommerfeld.

Q On what occasion were you together with Sommerfeld -- on the train or on the transport between Floss and Schwarzenfeld?

A I really was not together with Sommerfeld at all.

Q In your interrogation you said that Sommerfeld arrived in Neunburg, is that right?

A I did not see him arrive there myself, but I assumed that the march column arrived shortly before Neunburg and that Sommerfeld arrived with it.

Q Can you tell the court when this arrival in Neunburg took place?

A I cannot tell you exactly but it was around two or three o'clock.

Q At night?

A No, in the afternoon.

Q Do you know the day?

A I don't know the exact day any more, -- around the 19th or 20th.

Q This point is very important. I wish you would take trouble and try to figure out this time. You said you left Flossenburg on the 18th; figure it out from there.

A It was around the 20th -- the 19th or 20th.

Q But if possible, I would like to get an exact estimate of time and not an estimation. What was your first goal on the first day? Where did you go to?

A On the 18th we left Flossenburg and Floss and went to Weiden.

Q How long did you stay there?

A We stayed in Weiden the whole day -- that is, in Tierstein.

Q Is this the second day now or is it still the first day?

A It is still the first day.

Q Where did you spend the first night?

A We stayed the whole day in Tierstein and then we went back to Weiden and it had become dark meanwhile.

Q Where did you spend the second night?

A I believe in Nuenberg. The thing you want to find out is probably the 19th or 20th. I cannot give you the exact date.

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QUESTION BY DEFENSE COUNSEL:

Q Did you observe at the time that Ginchel was talking to Major Berger whether he was armed or not?

A I cannot remember.

PRESIDENT: Cross-examination.

QUESTIONS BY PROSECUTION:

Q What is your rank in the SS?

A SS Assistant.

Q Are you married?

A Yes.

Q Where is your husband at the present time?

A He is held captive by the French.

Q What was his rank?

DEFENSE COUNSEL: Objection as irrelevant and immaterial in this case.

PROSECUTION: If it please the court, I want to show the interest of this witness.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q Now did you see Ginchel with any other girl besides Hildegard Lippmann?

A Yes. He went with another girl but I don't know who she was.

Q Where was this?

A I believe it was in Spuhl Wildenau.

Q Was Hildegard Lippmann an SS woman?

A Yes.

Q Was the other woman an SS woman?

A I believe that was the girl from the Air Force.

Q How many times did you see Ginchel speak to Berger?

A I don't know exactly, he was there four times for sure.

Q Did you hear any of the conversation?

A No.

Q Where was the first time?

A The first time I saw it was in Schwarzenfeld.

Q You didn't see it in Floss?

A No.

Q You didn't see him at Auerbach?

A No, I heard about him there for the first time only.

Q You didn't see him in Weiden?

A No.

Q How long a time did you see him in Schwarzenfeld?

A I only saw him come up to Mr. Berger and go away again.

Q How long did the conversation last?

A Not long.

Q Well, approximately?

A Five minutes.

Q Was that before the air raid or after?

A The first time was before the air attack.

Q And what was the second time?

A It was around noon or the afternoon.

Q How long before the air attack did he speak to Berger?

A It didn't last long; it seems that he always wanted the same thing every time.

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Q What I am asking you is what at what time prior to the air attack did he speak to Berger -- how long before the attack?

A It was around 7 o'clock when the train had just arrived in Schwarzenfeld.

Q At 7 in the morning?

A Yes.

Q What time was the air attack?

A Around 8:30 -- something like that.

Q And when was the second conversation of Schwarzenfeld?

A When the cars went around that people would get lunch.

A That was around noon?

A Yes, around noon.

Q And you say that each time he wanted the same thing?

A Yes, because Mr. Berger said: "I wish this guy would not come back and bother me again."

Q Did he tell you what he wanted?

A No.

Q And you don't know whether he wanted the same thing?

A No, I can't tell you for sure.

Q Now, between 7 o'clock in the morning when the train arrived in Schwarzenfeld and the time of the attack, where were you?

A I was in a tavern where I drank coffee.

Q How far away from the train was that?

A It was in the immediate vicinity of the railroad station.

Q How close to the train?

A About 5 minutes on foot.

Q Approximately how many meters?

A I don't know.

Q Were you in a position to see what was happening at the train?

A After the air raid was over I immediately went over to the train and I saw people had been wounded and killed.

Q Were you in a position to see what happened at the train between the time it arrived there and the time of the air attack?

A No, I was not there then.

Q How soon after the air attack was over did you return to the train?

A The air raid lasted about a half hour.

Q And how soon after the termination of the raid did you return to the train?

A As soon as the -- after the air raid was over.

Q Did you remain at the train until the departure of the prisoners?

A The prisoners did not go off the train; they were divided up and made ready to march on off after the prisoners departed from Schwarzenfeld.

Q Did you remain there until they left?

A No; we went away earlier.

Q What time did you leave?

A I don't know exactly; it must have been around 6 o'clock in the evening.

Q Between the time of the air attack and the time you left, were you with the prisoners at all times?

A I was in one of the railroad cars; there was an SS man in there who was wounded.

Q And you remained in there from the time of the air attack until the time you left Schwarzenfeld?

A I was not there before the air attack, no.

Q I am talking about the time of the end of the air attack until the time you left Schwarzenfeld.

A Yes.

Q And you didn't leave that car during that time?

A I walked around outside a little bit but for the most part I was inside the car.

Q How long a time were you outside the car?

A I stayed outside for 15 minutes; then I went out of the car; then I went out again.

Q At all times when you were out of the car did you remain alongside the car or did you go back to the inn?

A No, I was always there near the car.

Q Now, while you were there at the cars from the time of the end of the air attack until the time you left Schwarzenfeld, were you in a position to see at all times what was happening to the prisoners?

A I saw that the wounded people were bandaged and that the dead people were placed in a line on the ground.

Q Where were you at that time?

A I was inside the railroad car and out there where I said I was -- outside the car.

Q At that time were all the dead and wounded removed?

A Immediately after the air raid had ended.

Q How long a time did it take?

A Perhaps around an hour.

Q And the air raid terminated about 9 o'clock?

A Roughly, it wasaround 9 o'clock or 9:30, I am not sure about the exact time.

Q What did you do after the dead and wounded were removed?

A I stayed out in the railroad car.

Q Was the wounded SS man removed?

A No, he stayed back there; they bandaged him up and he stayed there.

Q After 10 o'clock you remained in the car, is that correct?

A Yes.

Q Were you in a position to see what happened to the prisoners?

A They stood and sat around near the train and at noon I saw them get their food.

Q Was there a meadow in the neighborhood of that train?

A Yes, just across from the freight railroad station.

Q And were you able to see out into that meadow?

A I saw this meadow when I was looking for cover from the air raid.

Q Were you in a position to see this meadow after the dead and the wounded were removed?

A I don't know what happened to them because I went away immediately.

Q Will you answer my question.

A Yes. No, I wasn't there any more.

Q How far was this meadow from the train?

A In meters?

Q Yes, in meters.

A Perhaps 500 meters or 800 meters.

Q And you don't know what happened to the prisoners who went into the meadow after the air attack?

A No.

Q What time did you say you arrived at Nuenberg?

A It was around 2 or 3 o'clock in the morning.

Q When did you leave Nuenberg?

A In the afternoon.

Q What time did the prisoners arrive at Nuenberg?

A One or two, I don't know exactly.

Q How soon after the arrival of the prisoners did you leave?

A It would probably be around 4 or 5 o'clock -- I don't remember exactly.

Q Three or four hours after the arrival of the prisoners at Nuenberg?

A Yes.

Q During those 3 or 4 hours was Berger with you?

A Yes, he was with me in the tavern.

Q During the 3 or 4 hours after the arrival of the prisoners at Nuenberg Berger was with you in the tavern?

A Yes.

Q And Berger didn't go back to see the prisoners after they arrived?

A No. Berger merely had the food sent to the prisoners.

Q Did Berger receive any reports from anybody after the arrival of the prisoners?

A I don't know of any.

Q How did you know the prisoners were there?

A Because I heard that the food was to be taken out to them -- that the prisoners had arrived.

Q Who told you that the prisoners had arrived?

A An SS man came.

Q Who was he?

A I don't know.

Q What was his rank?

A A corporal -- something like that -- I am not sure.

Q Whom did he talk to?

A Mr. Berger.

Q Did you hear the conversation?

A No.

Q What did Berger do after he spoke to this corporal?

A He told the Administrative Sergeant to get the food ready and to see to it that it be taken away.

Q Did Berger tell you anything about the transport of the prisoners?

A No..

Q Did Berger tell you anything about the report he had received from the SS man?

A No. I heard him tell this Administrative Sergeant that the prisoners had arrived.

Q When did Berger talk to the Mayor or Nuremberg?

A In the morning when we got up.

Q Was that prior to the arrival of the prisoners in Nürnberg?

A Yes.

Q What time did he return from the Mayor's office?

A I saw him again after two or three hours had passed.

Q About what time was that?

A Around 11 or 11:30.

Q And between 11 and 11:30 until the time you left Nürnberg, Berger remained with you at the inn, is that correct?

A Yes.

Q At all times?

A He went away for a short time; I don't know exactly where he went, but I assume he went to get the horse and wagon for us.

Q How long was he gone?

A Perhaps an hour.

Q And when was that?

A I don't know the exact hour; perhaps around 2 o'clock.

Q Was it before the SS man reported that the prisoners had arrived or was it after?

A After that.

Q And he was gone how long?

A Around an hour.

Q Did you have any conversation with Berger after he came back on that occasion?

A No, I just heard the general news that a horse and wagon were ready and that we would drive on further with this horse and wagon.

Q From whom did you get that information?

A Mr. Berger told that to the other people and said that we were shoving on.

Q On that occasion did Berger say anything about the prisoner's transport?

A Not that I know of.

Q Well, try to remember. Did he, or did he not?

A No. I didn't hear anything.

Q You mean you don't remember or he didn't say anything?

A He didn't say anything.

Q How did you know that he went to speak to the burgomaster in the morning?

A Because in the inn he had asked the people where the Mayor was living and I know that he wanted to see the Mayor about the food situation to get some food for us.

Q When he returned about 11 or half past 11 from the burgomaster's office, did he discuss his conversation with the burgomaster with you?

A He came to us and asked us if we wanted to lend a hand getting the food ready.

Q And you helped get food ready, is that correct?

A Yes.

Q Where was that?

A That was in the tavern where the potatoes were cooked.

Q Where did you get the potatoes?

A The Mayor got them for us, of course.

Q What quantity of potatoes did you get?

A I saw about 8 to 10 bags of potatoes.

Q How many SS men were on that transport?

A I can't tell you.

Q How big were these bags?

A I assume they were bags of 100 pounds apiece.

Q Now where were you when Berger spoke to Bolbo in Schwarzenfeld?

A I was standing in front of our car.

Q Who else was there?

A Mrs. Antoman, the two prisoners and the wife of Mr. Berger and Mr. Berger. I don't know of any one else; and Mr. Berger gave an SS man the order to go and get Mr. Bolbo and bring him to him. [illegible] brought Mr. Bilbo

Q When he brought Mr. Bolbo was that the first time you had seen Mr. Bolbo?

A I had often seen him before that but I never had any contact with him whatever.

Q Did he have an insignia of his rank?

A He had an army uniform on.

Q What was his insignia of rank?

A Captain.

Q What rank insignia did Sommerfeld have?

A I believe First Lieutenant.

Q Where was this insignia of rank?

A I have already forgot that; I believe it was here on his shoulder.

Q And you were a member of the SS and you knew the distinction between rank and insignia, didn't you?

A Yes.

Q Yesterday you said Berger called Bolbo to the restaurant and this morning you tell us that he called Bolbo to the car. What have you got to say about that?

A When he had First Lieutenant Sommerfeld and Captain Bdlbo come to him the order was given to split up the people; that was after the air attack that he had First Lieutenant Sommerfeld and Captain Bdlbo and several other people, including a Tech Sergeant, come to him.

Q Now do you mean to say that he had two conferences with Bdlbo?

A That was in the morning when Mr. Berger turned over the transport to Captain Bdlbo.

Q Then that was before the air attack?

A Yes.

Q Did you hear the conversation at that time?

A I didn't hear this conversation when the officers and tech sergeants were together.

Q When was that?

A After the air attack.

Q Did you hear the conversations before the air attack?

A Yes. When Bdlbo received the transport.

Q When was that?

A In the morning.

Q What did Berger say on that occasion?

A He said he was turning the transport over into the hands of Bdlbo and that Bdlbo should remind the guards again that under no condition would there be any shooting.

Q Will you please repeat that conversation; I don't think it was translated exactly.

A "I am turning over the transport to you. Drill it into the guards' heads that there won't be any shooting."

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Q Did he say that there would be no further shooting?

DR. MACKAN: I will have to object to this question; I believe this question has been asked and answered three times and I would like to consider this question closed.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q Why did he tell them there would be no shooting of prisoners?

A Why? I don't know.

Q Well, did he give any reason for telling them?

A No.

Q Had the prisoners been shot up to that time?

A No.

Q How do you know?

A I didn't hear anything.

Q Did you hear any shots?

A No.

Q Did you get information that prisoners had been shot up to that time?

A No.

Q Now didn't Berger give any reason for turning the transport over to Balbo?

A He said he hadn't slept well; he had slept very little.

Q Did he tell them for how long a time he was turning over the transport to them?

A I don't know anything about that.

Q Did Berger say he wanted to take a nap?

A He said he was going into the inn and rest up a bit there.

Q Did he say he wanted Bolbo to take charge while he was taking a rest?

A Yes.

Q Shortly after that the air attack happened, is that correct?

A Yes.

Q After the air attack Berger continued in charge, didn't he?

A No, Mr. Berger came back and immediately left again and went to the Mayor's office in order to get medic personnel.

Q After the air attack Berger continued in contact with the transport and took care that the wounded and dead were removed, didn't he?

A Yes.

Q And Berger had all the non-commissioned officers and the commissioned officers brought to him at the restaurant after the air attack, didn't he?

A Yes.

Q And after that he had discussions with them, which discussions you didn't hear?

A I didn't hear them.

Q Now you have related an incident of Berger asking a guard why he had a rifle in his hand. You didn't see that guard, you said?

A No.

Q Just exactly what was the conversation. Try to reproduce Berger's tone of voice in telling us about it.

DEFENSE COUNSEL: May it please the court, that is an impossibility.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q Tell us the conversation.

A He said to the guard: "Put that rifle on your shoulder; don't you know there is an order that no one will be shot?"

Q Did he use the words "Put it on your shoulder"?

INTERPRETER, interrupting: I will have to look that up. He said: "Sling your rifle around your shoulder", the only way you can translate it.

QUESTIONS BY PROSECUTION:

Q Did he use the word "shoulder"?

A Yes.

Q Didn't you just say he said: "Sling your rifle around. . . "

A He said he should sling his rifle around and I assume he talked about the shoulder.

Q But you didn't hear him refer to the word "shoulder"?

DEFENSE COUNSEL, objecting: This question is objected to as being argumentative. The examiner is trying to argue with this witness and argue the facts she has stated.

PROSECUTION: The interpreter has used the word "shoulder" and I didn't hear the witness use that word. I would like to get the exact wording of the statement made by Berger. I think the court is entitled to know whether he used the word "shoulder" or not.

INTERPRETER: There are words in German which cannot be translated literally. This word, for German, - to put something around your shoulder - the word "shoulder" is understood. It is impossible to translate it any other way.

PRESIDENT: Proceed.

DEFENSE COUNSEL: I object to the question.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q Now you had not seen what was the position of the rifle held by this guard?

DEFENSE COUNSEL: That question is also objected to as argumentative.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q In what position was the guard holding the rifle at the time Berger spoke to him?

DEFENSE COUNSEL: It is objected to as being argumentative. He is trying to argue the facts that she has stated.

PROSECUTION: If the court please, may I be permitted to answer? I just wanted to know what she saw.

PRESIDENT: Objection sustained.

PRESIDENT: The court will take a 5 minute recess.

(Whereupon the court recessed and reconvened at 1115 hours)

PROSECUTION: May it please the court, let the record show that all the personnel of the prosecution are present with the exception of

Colonel Denson and Mr. Pinter; all the personnel of the defense are present; all the defendants are present with the exception of Buddensieg, Olschewski, Oswald, Wurst, Jakubith, Lipinski and Metzke, who are sick in the hospital and whose interests are being taken care of by their counsel. May Bisbush be included.

The witness is reminded that she is still under oath.

If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: The objection of Defense Counsel, Mr. McKay, is sustained.

QUESTIONS BY PROSECUTION:

Q What reply did this soldier make to Berger?

A I didn't hear that.

Q What was the rank of the soldier.

A I don't know.

Q Didn't you notice it?

A No.

Q Was this soldier a member of the SS or was he part of the camp police?

DEFENSE COUNSEL: Objected to as argumentative.

PROSECUTION: I can't see any argument in that, sir.

PRESIDENT: Mr. Berkowitz, this particular witness has testified twice that she did not see this particular soldier. The objection is sustained.

QUESTIONS BY PROSECUTION:

Q What tone of voice did Berger use when he spoke to this soldier about his rifle?

A Perhaps a little severe.

Q What do you mean by "a little severe"?

A Usually Mr. Burger talked differently than he did then. I can only characterize it by saying, it was a little severe -- a little brusque.

Q Did he seem excited?

A Yes.

Q Had you heard any shots just prior to that time?

DEFENSE COUNSEL: Objected to as repetition.

PRESIDENT: Objection sustained.

QUESTIONS BY PROSECUTION:

Q How many camp police were along with this transport?

DEFENSE COUNSEL: Objected to as going beyond the scope of the direct examination.

PROSECUTION: May I reply, sir?

PRESIDENT: Yes.

PROSECUTION: The witness has testified about the guards. I just want to know what the guard company was composed of.

PRESIDENT: The objection of Defense Counsel, Mr. McKay, is overruled. However, Mr. Berkowitz, that is a matter of repetition.

PROSECUTION: May the witness be allowed to answer?

PRESIDENT: The witness has already testified as to guards.

PROSECUTION: I don't think we have any testimony, sir, as to whether the guards were all SS or not.

PRESIDENT: The witness will be permitted to answer.

WITNESS: Please repeat the question.

(Whereupon the question was repeated by the reporter as follows):

Q How many camp police were along with this transport?

A I cannot tell you.

Q Did you see any?

A Yes.

Q How many did you see?

A It could have been 6; it could have been more.

Q What kind of uniforms were they wearing?

A The SS uniform but without insignia.

Q What kind of uniform did Ginchel wear?

A Ginchel wore the same uniform.

Q What kind of weapon did he carry?

A I didn't see any weapon.

Q How many times did you see Ginchel?

DEFENSE COUNSEL: Objected to as argumentative.

PRESIDENT: The objection of Mr. McKay is overruled but the court feels, Mr. Berkowitz, that this is a matter of repetition. The witness already testified to that matter.

PROSECUTION: I withdraw the question.

QUESTIONS BY PROSECUTION:

Q Do you know what the Burgomaster of Nellenburg had to say about shootings in that area?

A No.

Q What were the nationalities of the two prisoners who rode in the car with you?

A One was German; one was an Austrian.

Q Were they members of the camp police?

A No.

Q What were they doing with the transport?

A They were always together with Mr. Berger; they didn't do anything.

Q Did they have any duties on this transport?

A I don't know of any duties that they had.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon at 1200 hours the court adjourned)

CAMP DACHAU, GERMANY

25 October 1946.

AFTERNOON SESSION

(The court, at 1330 hours, reconvened.)

PRESIDENT: Court will come to order.

PROSECUTION (Mr. Berkowits) If the court please, may the record show that all the members of the court are present, all members of the defense are present except Dr. Angel Mesthorn, who is absent on business of the accused. All members of the prosecution with the exception of Col. Denson and Mr. Pinter, who are absent on business of the accused; all of the accused, with the exception of Buddensieg, Cl[illegible]ski, Oswalt, Jakubith, Matzke, and Lipinski, who are sick in the hospital and whose interests are being taken care of by counsel. The court reporter and the interpreter are present. The witness is reminded that she is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case they will please leave.

PRESIDENT: The court would like to see the assistant prosecutor and the assistant defense counsel.

(The court and counsel confer off the record.)

PRESIDENT: The court will come to order. Continuation of the cross examination, Mr. Berkowits.

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ

Q Now Mrs. Barth when did you arrive at Redding?

A On the 19th or on the 20th.

Q The same day you left Nuernberg?

A We arrived in the night.

Q And from Nuernberg did you proceed to Straubing?

A From Redding in Straubing.

Q And where were you taken into custody? By the American authorities?

A I went all the way to Austria then.

Q And when were you taken into custody?

A On the 13th of June, 1945.

Q Where were you between the 19th of May and the 13th of June?

A Near Krats.

Q In Austria?

A Yes.

Q And you remained there the entire time, from the time you left Strumbing until the time you were taken into custody?

A We kept on moving until we got down near Krats.

Q Did you at any time come back to Bavaria?

A Yes.

Q Where to?

A Eberfink, near Weilheim.

Q And how long did you remain there?

A About six to eight days.

Q MR. BERKOWITZ: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY DEFENSE COUNSEL (Dr. Becker)

Q Were you a member of the National Socialistic Party?

A No.

Q Was your husband a member of the Party?

A No.

Q Except for the fact that you were assistant in the [illegible] did you belong to any nationalist social organization?

A I was with the Hitler Girls' organization.

Q But you were not with any other organization?

A The National Socialist Women's Organization and the Workers Front Organization.

INTERPRETER: May I ask the witness a question?

PRESIDENT: Yes.

INTERPRETER: The answer is: National Welfare Organization and the Workers' Front Organization.

(Barth - redirect)

Q May I ask her to repeat the words?

A N. S. V.

DR. WACKER: May I explain it? It means the German National Welfare Association.

MR. BERKOWITZ: May I ask if that is National Social or Nationalist Social.

A National Socialist Welfare Association.

MR. BERKOWITZ: Thank you.

Q When you were an assistant with the SS what rank did you have?

A I didn't have any rank.

Q Did you wear a uniform?

A We had a jacket and a skirt.

Q What were your duties as assistant in the SS?

A We had to pay attention and look to see that no sabotage was undertaken.

Q Just one more question in regard to the prisoners' transport. Did Mr. Berger take any precaution, any measures, in case the transport were attacked by airplanes?

A Starting with Fless, the railroad cars were camouflaged with prisoner's clothing.

Q How was that done?

A I saw shirts and jackets and things of that nature put up on bars.

PRESIDENT: Further redirect examination by the defense?

DEFENSE COUNSEL (Mr. McKay: Nothing.

PRESIDENT: Recross?

PROSECUTION (Mr. Berkowits) Nothing further, sir.

PRESIDENT: Questions by members of the court?

EXAMINATION BY THE COURT

QUESTIONS BY MAJOR LANHAM

Q You were asked several times about being down to the inn

with Berger; was anybody else with you at that time?

A In Schwarzenfeld.

Q Yes.

A Miss Hurtmann, the two prisoners and the wife of Mr. Berger were there.

Q Now I understood you to say that you were in the SS for five months; is that right?

A Yes.

Q Were you familiar with the different uniforms, the different ranks of the different branches of the German army? That is, I mean insignia which denoted ranks?

A Yes, roughly.

Q What insignia did a captain in the SS wear?

A The shoulder pieces were closed and I believe there was a star on them.

Q What was the difference between a captain and a first lieutenant?

A First Lieutenant had a star and a second lieutenant didn't have any.

Q I asked you about the difference between a captain and a first Lieutenant?

A I believe he had two stars.

Q You seemed to have trouble a while ago differentiating the rank of Captain Zablo; I was wondering if you knew.

A A first lieutenant in the army is about as much as a first lieutenant in the SS, I believe.

QUESTIONS BY THE PRESIDENT

Q You have testified that Sommerfeld was in command of a column; just which column were you referring to?

A The column which marched.

Q In other words, that is not the same column that you left Flossenburg with?

A Oh, yes, it is the same column.

(Barth - court)

Q Well, just where did Sommerfeld assume command of that column?

A Starting with Schwarzenfeld.

Q In other words, the court understands, then, that Sommerfeld assumed command of the marching column at Schwarzenfeld; is that correct?

A Yes.

Q The court further understands then that Sommerfeld was in command at Nuernberg; is that right?

A Yes.

Q Any further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q Just why are you in detention now, do you know?

A Because I was an SS assistant.

Q Weren't you just the equivalent of a private soldier or did you hold any rank which justified that confinement?

A No; as SS assistant.

Q Well, does SS assistant include any rank at all?

A Included in the SS assistants there are minor leaders non-commissioned women in the SS and also people who have higher duties and they have small ranks.

Q Were you any kind of a leader?

A No.

QUESTIONS BY PRESIDENT

Q Have you ever been called in and interrogated as to your own particular case?

A Yes. In October 1945.

Q Can you tell the court whether or not any definite charges are on file against you at the present time?

A I don't know anything about it.

Q You have never been presented with any particular charges then, is that the case?

A No.

Q The last time you were questioned as to your own particular

case was October of1945?

A Yes.

Q And the court understands you have been in custody since the 13th of June, 1945; is that correct?

A Yes.

Q Further questions by members of the court?

QUESTIONS BY LAW MEMBER:

Q Do you know where Ginschel's girl friend is now, Hildegarde?

A The girl stayed back in Austria because she was sick.

Q She is in Austria now?

A I don't know whether she is still there or not.

Q You say that Ginschel was quite a pursuer of girls, is that it?

A Yes, that is about right.

Q Did he ever catch up with any of them?

A Yes.

PRESIDENT: Further questions by members of the Court?

QUESTIONS BY COL. JACKSON

Q What were your duties? What was your work as an assistant SS?

A We had to supervise the work of the women.

Q Were those women from the concentration camps?

A Yes. They were prisoners, but they had their own clothes on.

Q Were you connected with the prison of the camp?

A No. There were SS guards there.

QUESTIONS BY THE PRESIDENT

Q Were some of those women laborers what we term forced labor from other countries?

A Yes.

Q Any further questions by members of the court? Apparently not. Dr. Wacker?

(Barth - Court)

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER

Q When you say that Sommerfeld was the leader of the column that marched, do you mean that in Nuernberg Berger didn't have any more transport?

A As far as I understood it, Mr. Berger turned the transport over to Sommerfeld.

EXAMINATION BY THE COURT

QUESTIONS BY Col. Jackson:

Q You say that Sommerfeldt was in charge of the marching column?

A Yes.

Q Was there another column?

A The other columns which stayed back with Captain Barho consisted of sick and wounded prisoners.

Q How were they transported?

A I don't know. They stayed back.

PRESIDENT: Any further questions by members of the court? Apparently not. Defense? Prosecution?

RECROSS EXAMINATION

QUESTIONS BY PROSECUTION (Mr. Berkowitz:

Q Now you testified, didn't you, that you didn't hear the conversation between Berger and Sommerfeldt?

A In Schwarzenfeld?

Q Yes.

A No.

Q Did you hear any questions between them in Nuernberg?

A I didn't see Mr. Berger speaking to Sommerfeld in Nuernberg.

Q Now you say you were working with the detail of women. Was this detail under the direction of Flossenburg?

A Yes.

(Barth - recross)

(Prosecution's Exhibit No. 77 was marked for Identification.)

Q I show you Prosecution's Exhibit No. 77 for identification and ask you if you know what this is?

A No.

Q I call your attention to the women on the photograph and ask you if that is the kind of uniform which you wore?

A We had a skirt on which is like this one.

Q Will you answer my question?

A How should I answer it.

Q Did you wear a uniform just like that?

A I wore a skirt like this one that I am wearing here, and a jacket which matched.

Q PRESIDENT: Just a minute on that. Let the record show that she pointed to her own skirt.

Q Did you wear a uniform like that in the picture?

A No.

Q What is the difference?

A The difference is like this. It was cut out at the top and there were three buttons here.

Q This has three buttons, hasn't it?

A No. It doesn't reach as far up to the neck as the jacket which I had.

Q Did you wear a cap?

A We were supposed to wear caps like that but we didn't wear them. We only wore them when we were at work.

Q And what kind of a coat did you wear?

A I didn't have any.

Q Did you have a short coat? A jacket?

A Not one like that; no.

Q Did you have a jacket?

A Yes.

(Barth - recross)

Q Did the jacket and skirt match?

A Yes.

Q What color were they?

A Gray; like this.

Q Same color as the SS men's uniforms?

A No. The SS men wore a green uniform; my uniform was gray.

Q Now was this uniform which you used, issued to the women of the SS?

A Yes.

PRESIDENT: Are you going to tie this matter in with the main issue now?

MR. BERKOTIZ: Well, the witness was asked whether she wore a uniform and what uniform she wore. It was asked on direct examination and I am asking it on cross.

PRESIDENT: Redirect?

DEFENSE COUNSEL: Nothing further.

PRESIDENT: Any further questions by the members of the court? Apparently not. The court understands the defense has finished with this witness. The witness will be excused.

DR. WACKER: Is it possible for the witness to go back to Ludwigsburg?

PRESIDENT: Any objection on the part of the Prosecution?

PROSECUTION (Mr. Berkowitz): No objection.

PRESIDENT: The witness may be sent back to Ludwigsburg.

(The witness was excused and withdrew from the court room.)

DR. WACKER: I ask for a short intermission.

PRESIDENT: Court will take a recess in place.

(A short recess was taken in place.)

(The court, at 1410 hours, reconvened.)

PRESIDENT: Court will come to order. Dr. Wacker.

DR. WACKER: I am calling the witness Nowitski on be-

(Barth - redress)

half of the accused Pawlicsek, No. 34.

WERNER NOWITZKI, called as a witness bythe defense, being first duly sworn, was examined and testified through an interpreter as follows:

DIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Please give your full name to the court?

A Werner Nowitzki.

Q What is your civilian profession?

A Painter.

Q How old are you?

A 33 years old.

Q Where is your residence?

A Altmitweide, in Saxony.

Q Are you married?

A Yes.

Q Do you have children?

A Yes.

Q Where is your present location?

A In Camp Dachau.

Q Are you a prisoner here?

A Yes.

PRESIDENT: The court sees fit to advise you at the present time that if you should be asked any question that might tend to incriminate you, you have a right to request the court to refrain from answering that particular question. Do you fully understand?

A Yes.

Q For what reason are you a prisoner here?

A I was a former member of the Waffen SS.

Q Were you a party member?

A Yes.

Q Since when?

A Since the first of May, 1937.

Q Were you a member of the ordinary SS?

A Yes.

Q What date did you join?

A Since the first of October, 1932.

Q Were you in this war?

A Yes.

Q When were you drafted?

A First of October, 1942.

Q Did you formerly have a civilian profession?

A No.

Q What were you then?

A I was in Flossenburg starting in 1935. 1938. I must mention here that in 1935 I went to the T.V.; to the Waffen SS, that is.

Q Did you have duties with the Waffen SS?

A Yes.

Q When did you go to Flossenburg?

A On the first day of the ninth month, 1938.

Q The first of January 1940, what rank did you have?

A Tech. Sergeant with the SS.

Q How long did you stay in Flossenburg?

A Until the third of October, 1942.

Q On the first of January, 1942, what duties did you have in Flossenburg?

A I was a staff sergeant in the command headquarters.

Q Who was your immediate superior, then?

A The commandant.

Q Who was that then?

A Lt. Col. Kuenstler.

Q Was there any change in this position during the year 1942?

A No.

Q And then Kuenstler was your superior until you went away?

A Yes.

Q Do you know a Mr. Pavliczek?

A Yes.

Q Could you identify him if you would see him now?

A Yes.

Q Please look over at the dock and try to identify him.

A There he is; 34.

Q Let the record indicate that the witness has identified Pavliczek, No. 34. Where did you learn to know Pavliczek?

A Pavliczek was a member of the staff of the headquarters.

Q Where?

A In Flossenburg. Where I myself was a member of the staff.

Q When did Pavliczek arrive at Flossenburg?

A I can't tell you.

Q Was he in Flossenburg on the first of January, 1942?

A I don't know that either.

Q Do you know how long Pavliczek was in Flossenburg?

A Pavliczek was transferred with me on the third of October 1942.

Q Whatkind of a transfer is involved here?

A We were transferred to the front to the mountain troops, Prinz Regenten

Q Did you leave Flossenburg together with Pavliczek?

A Yes; I had to direct the transport and that is how I can remember it.

Q How many people were included in this transport?

A Seventeen noncommissioned officers.

Q Do you know what rank Pavliczek had then?

A Sergeant.

Q Did you come to this Prinz Regenten division together?

A No, I went to the secret service division.

Q Do you know whether Pawliczek returned to Flossenburg again after the third of October 1942?

A I can't tell you that for sure but I did meet him again later in Crolia, Sarajevo.

Q Is that where the Crown Prince of Austria was murdered in 1914?

A Yes, that is the same place.

Q When did you meet Pawliczek there?

A That must have been in the summer of the year 1943.

Q With what troop was Pawliczek then?

A Pawliczek was with the second regiment.

Q Was that an SS regiment?

A Yes.

Q What was the reason for this transfer to the front? That is, your transfer and the whole column's transfer?

A We wanted to go to the front for a long time and after a lot of red tape and writing letters, it was finally authorized, and then all the K. V. were picked out,--the non-commissioned officers, and put in this march.

Q Did you have leave before you marched off on the third of October?

A Yes.

Q How much leave?

A As far as I know, fourteen days.

Q When did Pawliczek end his tour of duty at Flossenburg? As far as you know? As far as you can remember?

A Between the 15th and 20th of September.

Q What year?

A 1942.

Q Do you know whether Pawliczek was sick or in good health in 1942?

A I can't tell you that for sure, but I know that he was sick rather often.

Q What was the trouble with him?

A He had something wrong with his nerves.

Q Do you know anything about the treatment that he had for this illness?

A I cannot tell you for sure. I know that a doctor was treating him and that he was often absent in order to undergo this medical treatment.

Q What do you mean when you say he was often absent?

A He wasn't in the garrison. That is to say, he would often be away in the hospital.

Q Was he in the hospital in Flossenburg or in a hospital on the outside?

A On the outside.

Q Do you know where?

A No. I don't know.

Q Do you know whether any Poles were executed in the year 1942?

A No.

Q Do you know anything at all about executions?

A I know that there were executions taking place in 1941.

Q According to whose orders did these executions take place?

A They took place under the command of an officer; his name was Captain in the SS Aumeier.

PRESIDENT: Just a minute. The Court understands those executions took place in 1941?

DR. WACKER: That is what I am trying to prove, may it please the court, whether that took place in 1941 or 1942. The prosecution is trying to prove that that took place in 1942 and I am trying to prove that that took place in 1941. Was Aumeier the official that constantly took charge of these executions?

PROSECUTION (Mr. Berkowitz): If it please the court, I have refrained from objecting to leading questions, but they

are continuing to such an extent that I must finally arise and object to them.

DR. ~~AHRENS~~ WACKER: I withdraw the question. Who had charge of the executions?

A As I already said, Captain of the SS Aumeier had charge of these executions.

Q Anyone else?

A Nobody else.

Q Do you know Aumeier yourself?

A Yes.

Q What period of time was Aumeier in Flossenburg?

A I don't know when he started there, but I know he stayed there until around December 1941.

DR. WACKER: Thank you. No more questions.

PRESIDENT: Dr. Engelhorn?

QUESTIONS BY DR. ENGELHORN

Q I would like to ask this witness a question in the name of Winkler. Nowitski, did you learn to know a man with the name Winkler in Flossenburg?

A Yes.

Q Could you recognize him today; identify him?

A Yes.

Q Take a look and see if he is in the dock and point him out if you see him.

A The fourth in the top row. 49.

Q Let the record show that the witness Nowitski has identified No. 49 as the accused Winkler. Do you know when Winkler arrived in Flossenburg?

A I don't know.

Q Do you know how long he stayed there?

A Yes.

Q Until when?

A Winkler left in the same transport as Pavliczek and I left on.

Q When did that take place?

A That was on the third of October 1942.

Q Did he leave before then or did he stay there steadily until the third of October?

A He had already had leave before that.

Q How much leave?

A Just the same as everyone else. Fourteen days.

Q About when did he leave Flossenburg then?

A He left Flossenburg on the third of October.

LAW MEMBER: What year?

A 1942.

Q And how long did he continue to perform his duties?

A Up until between the 15th and 20th of September.

Q 1942?

A Yes.

DR. WACKER: I thank you.

PRESIDENT: Further direct examination? Mr. O'connor.

QUESTIONS BY MR. O'Connor:

Q I will question this witness in behalf of No. 41, Schreiber. While you were in Flossenburg did you know a man named Schreiber?

A Yes.

Q Will you please look in the dock and see if you can identify him?

A The last one in the top row; 41.

Q Let the record show that the witness has accurately identified the witness, the accused, No. 41, Schreiber. You were in Flossenburg on January 1, 1942, were you not?

A Yes.

Q Did you know Schreiber at that time?

A Yes.

Q How long had you known him on January 1, 1942?

A Three or four years.

Q What was Schreiber's rank on January 1, 1942?

A First Sergeant.

Q And did he retain that same rank, or was his rank changed from that time up until the time you left the camp in October of 1942?

A He kept his rank.

Q During that period of time from January first 1942 until you were transferred to the front, did you have occasion to see Schreiber seldom or often?

A I can't tell you any more today when actually. I saw him often.

Q Do you know what Schreiber's duty was during that period of time?

A Yes. He was a leader of the work commitment office.

Q Well, what were his duties during that time?

A He had to divide up the work among the prisoners. Divide up the duties among the prisoners.

Q Well, do you know whether or not in carrying out that duty, Schreiber participated in any executions from January 1, 1942, until the day you were transferred to the front, in October, 1942?

PROSECUTION (Mr. Berkowitz): Objected to as leading.

DEFENSE COUNSEL (Mr. O'Connor) May I say something, please?

PRESIDENT: O. K.

DEFENSE COUNSEL (Mr. O'Connor) It is a qualifying question, I asked him if he knows. If he says no, I will not ask him.

PROSECUTION (Mr. Berkowitz) Still a leading question.

PRESIDENT: Objection sustained.

Q Well, who was in charge of the execution detail during the period from 1942 from January 1 until October third 1942?

A As far as I know, there weren't any executions that took place then.

Q How do you know that?

A If any executions had taken place in that period of time I certainly would have found out about it.

Q Did you ever hear of any?

A I heard comrades testifying to executions which had taken place in 1941.

Q Who was in charge of these? Who was in charge of these executions?

A Captain Aumeier, was in charge of these executions in 1941.

Q And where was he in 1942?

A In December 1941 he was transferred from Flossenburg, as far as I know. I can't give you the exact day.

Q Did anyone succeed him in that duty from the time he was transferred until the time you left the camp?

A I can't give you an answer to that, because I never heard of any execution taking place.

Q Do you know, during the period of time that you knew Schreiber in Flossenburg, do you know his general reputation among the prisoners?

A I knew that he was well loved.

DEFENSE COUNSEL (Mr. O'Connor) That is all.

PRESIDENT: Any further direct examination of this witness?

DEFENSE COUNSEL: (Mr. McKay) Nothing further.

CROSS EXAMINATION

PROSECUTION (Mr. Berkowitz)

Q Nowitzki, have you been advised that you have been named by several of the present defendants as a member of the firing squad which performed the executions in Flossenburg?

A That doesn't jibe with facts.

Q I asked you if you have been informed that you have been named as such by several of the defendants?

A No.

Q Nobody has told you that you were named in the defendants' statements as a member of the firing squad of Flossenburg?

DEFENSE COUNSEL (Mr. O'Connor) If the court please, as far as I am personally concerned, I object to the question. I do not have the copy of the Prosecution's statement and I have no way of knowing what is in that. And for the further reason that the question is incompetent, irrelevant and immaterial, to any issue in this case.

PROSECUTION (Mr. Bunkowitz): May I rebut?

PRESIDENT: Just a minute. Dr. Wacker?

DEFENSE COUNSEL: (Dr. Wacker) For my part, I must also object to this question because I do not know whether the prosecutor is referring to any record or any statement which Pawliczek is supposed to have made.

DR. ENGELHORN: I must make the same objection in regard to my client Winkler. I must also mention here that the only purpose of this question is to intimidate the witness and for that reason it is out of order.

MR. BERKOWITZ: If the court please—

PRESIDENT: The court will give Mr. Berkowitz an opportunity to answer, but make it concise.

MR. BERKOWITZ: If the court please, the exhibits are on the reporter's table and are familiar to the defense counsel. I call attention to exhibit No. 58, in which Nowitzki is named as a member, with Schreiber and Winkler and Pawliczek, of the firing squad. I asked the question to show the interest of the witness.

PRESIDENT: Court will take a short recess in place.

(Nowitzki - cross)

Court will be closed.

(Whereupon the court was closed.)

(The court at 1455 hours was opened.)

PRESIDENT: Court will come to order.

PROSECUTION (Mr. Burkowitz) If the court please, may the record show that all the members of the court are present; all of the prosecution except Colonel Denson and Mr. Pinter who are absent on business of the prosecution; all of the defense counsel are present; all of the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Matzke, Lipinski, and Becker, who are sick in the hospital and whose interests are being taken care of by counsel. The witness is reminded he is still under oath. If there are any spectators in the courtroom who expect to be called as witnesses in this case, they will please leave the courtroom. If it please the court, may the record show that Joseph Becker has returned to the courtroom.

PRESIDENT: The objection of the various defense counsels is overruled.

DEFENSE COUNSEL (Mr. Hall) If it please the court, I should like to make a statement for the record in view of the fact that so many defense counsels have. I should like to show that I have never interviewed this witness myself.

(The last three questions were read by the reporter.)

DEFENSE COUNSEL (Mr. O'Connor) May it please the court before prosecution is permitted to question on these statements, I should like to be given an opportunity to see prosecution's exhibit No. 58.

PRESIDENT: The court will take a recess to give Mr. O'Connor an opportunity to check the matter. The court will take

a half hour recess, and, Mr. O'Connor, you can check the matter during that time.

(Whereupon the court recessed at 1500 hours.)

Camp Dachau, Germany
25 October 1946

AFTERNOON SESSION (Continued)

(Whereupon the court reconvened at 1540 hours.)

PRESIDENT: The court will come to order.

MR. BERKOWITZ: May it please the court, let the record show that all the members of the court are present; all the personnel of the prosecution are present except Mr. Denson and Mr. Hinter, who are absent on business for the prosecution; all the personnel of the defense are present; all the accused are present except Buddensieg, Olschewski, Oswalt, Jakubith, Matzke, and Lipinski, who are sick and whose interests are being taken care of by counsel. The witness is reminded that he is still under oath. If there are any spectators in the court room who expect to be called as witnesses in this case will they please leave the court room.

PRESIDENT: Proceed with cross-examination, Mr. Berkowitz.

WERNER NOWITZKI, called as a witness for the defense, resumed the stand and being reminded that he was still under oath testified further through an interpreter as follows:

CROSS EXAMINATION (Continued)

QUESTIONS BY MR. BERKOWITZ:

Q I asked the witness a question and request that it be answered now. Has nobody told you that you were named by the defendants in their statements as a member of the firing squad?

A No.

MR. BERKOWITZ: No further questions.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q I want to straighten something out. How do you spell your name?

A Nowitzki.

MR. O'CONNOR: If the court please, the person whose name appears three times in Prosecution's Exhibit 58 is spelled Novitzki, not Nowitzki. I just wanted to bring that error to the court's attention.

MR. BERKOWITZ: May I also call the court's attention to Prosecution's Exhibit 60 in which it is spelled Nowitzki?

PRESIDENT: Redirect.

MR. O'CONNOR: I have nothing further sir.

PRESIDENT: Recross.

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: Colonel Wilson.

DEFENSE COUNSEL: I am at a loss as to how to proceed. I understood the prosecutor to say "the defendants in their statements". As I see the picture, we certainly have had a man of a similar name or perhaps the same man referred to by two defendants in one statement each. The question of "the defendants and their statements" may imply any one or all of the fifty-one defendants and any one or all of the ten or fifteen statements we have here. I realize it is too late to object, and I don't mean to raise a technical objection, but I would like to know what the prosecutor has up his sleeve.

PRESIDENT: In order to avoid any misunderstanding as far as the present witness is concerned, the court will ask the assistant

prosecutor to make any statement he desires with regard to the question.

MR. BERKOWITZ: I think it is grossly unfair on the part of the defense to imply that I have something up my sleeve. I have nothing up my sleeve. I am merely calling the attention of the court to previous statements and I am asking the witness if he knew he had been named in statements by the defendants. It is quite obvious that the witness has an interest in the subject matter which the court has a right to know, and the questions were directed to that end.

DEFENSE COUNSEL: I might say that in using the term "up his sleeve" I was merely using a conversational expression. It was not my idea to imply anything unfair against my honorable opponent, Mr. Berkowitz. Nevertheless, there are some fifty-one defendants and I believe some seventeen statements. I was wondering if these were the only two he had in mind.

PRESIDENT: IS there anything further, Mr. Berkowitz?

MR. BERKOWITZ: No, sir, if the defense wishes to clarify the matter it may do so by redirect examination.

PRESIDENT: Doctor Wacker.

DOCTOR WACKER: It seems to me there is another question of much more importance. The question is whether you can refer to exhibits when it has not been proved whether they were made under pressure or not. This particular exhibit is just the statement in writing which Gelhardt said he was induced to make and that he was mistreated severely. The court has ordered in this record that Guth be brought from the States. I am of the opinion that up to this point no reference should be made to an exhibit like

that.

PRESIDENT: Doctor Wacker, are you referring to Exhibits 58 and 58-A?

DOCTOR WACKER: I am talking about the Exhibit which is a statement of Gelhardt and he said that it was made under pressure. I do not know the number.

PRESIDENT: The court has already received into evidence Prosecution's Exhibits Nos. 58 and 58-A. What the court has held in abeyance is Prosecution's Exhibit No. 74.

DOCTOR WACKER: I was only able to find out from the reporter that this particular exhibit is not at hand and that Mr. Hall has only a copy, but of course I do not know which exhibit it was.

PRESIDENT: Doctor Wacker, the court is under the impression that you are referring to Prosecution's Exhibit 74, which was actually held in abeyance by this court due to the circumstances under which it was secured. The same thing applies to Prosecution's Exhibits 60 and 60-A which have been received in evidence. But understand, Doctor Wacker, that when the court receives those exhibits in evidence the court is just giving to them such weight as the court sees fit. Is there anything further from the defense? Mr. Hall.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q Mr. Nowitski, you said if any executions took place in 1942 you would surely know about them. Will you please explain that in a little more detail. I mean the executions prior to the time of your departure.

A In the first place my comrades would have told me about it. In the second place the nature of the position I held was such that I would have known about it.

Q What was your position?

A I was a 1st sergeant.

Q You were 1st sergeant where?

A I was 1st sergeant in headquarters, so to say. I was the immediate superior of all members of the SS.

Q What were your duties there as 1st sergeant?

A I had to take care of personnel matters as far as SS men were concerned and furthermore the general paper work and correspondence and things like that.

Q Who was your immediate superior?

A Lt. Col. Künstler, Camp Commandant.

Q When did Künstler leave Flossenburg?

A During the time I was there. He might have left about two or three weeks before I left.

MR. HALL: That is all, sir.

RECROSS EXAMINATION

QUESTION BY MR. BENKOWITZ:

Q When you say no executions took place in Flossenburg from January 1, 1942 until the time you left, do you mean there were no executions of any character?

A No, I don't mean to say that.

MR. BENKOWITZ: No further questions.

REDIRECT EXAMINATION

QUESTION BY MR. HALL:

Q What do you mean to say then, Mr. Nowitzki?

A Executions which I know of took place in the year 1941 under the command of Captain Aumeier.

QUESTIONS BY DOCTOR WACKER:

Q Under whose command did the executions of Polish nationals take place?

A Executions were carried out by shooting in 1941 under the command of Captain Aumeier.

Q Did executions of that nature take place in 1942 as well?

A No, they couldn't have taken place because Captain Aumeier was no longer there and I don't know of any other executions.

QUESTIONS BY MR. HALL:

Q You said the executions by Aumeier were by shooting. Will you describe what you mean by shooting?

A As far as I know these executions had been ordered and the persons had been sentenced to death in an ordinary manner and the sentenced person was then shot to death.

Q In what manner were they shot to death?

A I can't give you any information as to that because I wasn't present.

MR. HALL: No further questions.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further, sir.

EXAMINATION BY THE COURT

QUESTIONS BY THE LAW MEMBER:

Q Nowitzki, the prosecutor has stated that the defendants or a number of them said you took part in the shooting of a number

of people at Flossenburg in a shooting detail. The court has before it Prosecution's Exhibit 58-A and Prosecution's Exhibit 60-A which mention a man by the name of Nowitzki. The name in Exhibit 58-A is spelled Novitzki and in Exhibit 60-A it is spelled Nowitzki. There is no first name, there is no rank, no serial number, there is nothing to indicate what organization the man belonged to, whether he was an inmate, soldier, or guard. I do not know from the record how the Prosecutor knows it is you. Do you wish to make a statement as to whether you participated in those executions?

A No. That is, I didn't participate.

QUESTIONS BY LIEUTENANT COLONEL BURCHAM:

Q How many Nowitzkis were there in the guard battalion at Flossenburg while you were there?

A As far as I know there was one in the guard battalion and myself, that is, two altogether.

Q What was the rank of the other Nowitzki?

A I don't know. I can't tell you.

QUESTIONS BY COLONEL JACKSON:

Q On what duty was this other one with your name?

A The other one was a guard.

PRESIDENT: Mr. Berkowitz, the court will give you an opportunity at a later period to clarify this situation.

MR. BERKOWITZ: May I just ask a few questions after the court has finished?

PRESIDENT: Go ahead, Mr. Berkowitz.

RECROSS EXAMINATION

QUESTIONS BY MR. BERKOWITZ:

Q What is the first name of the other Nowitzki?

A I don't know.

Q You were in the SS personnel section?

A Yes.

Q And this was the only other Nowitzki beside yourself in the SS personnel?

A Yes.

Q And you do not remember his first name?

A No, I can't.

Q Winkler was a non-commissioned officer, was he not?

A Yes.

Q And Schreiber was a non-commissioned officer?

A Yes.

Q And Pawliczek was a non-commissioned officer?

A Yes.

Q What was the other Nowitzki?

A A guard.

MR. BERKOWITZ: No further question.

EXAMINATION BY THE COURT

QUESTIONS BY LIEUTENANT COLONEL SMILY:

Q I understood you to answer under cross-examination that there were some executions in 1942. Were there or were there not any executions in 1942?

A No, there were none.

Q Did you have access to the records?

A No.

Q How do you know there were none?

A When I said I didn't know of any I don't know of any.

Q How many people were shot by SS men in 1942?

A Nobody.

Q None at all?

A No.

Q How many were cremated in 1942?

A I don't know.

Q Do you know if there were any at all?

A No, I don't know whether there were any.

Q How do you know there were none?

A I don't have any way of knowing that.

QUESTIONS BY COLONEL JACKSON:

Q Would you know if a guard shot a prisoner, that is, while a prisoner was trying to make an escape?

A Yes, I would have known that.

Q In your personnel office did you handle any records of the prisoners as well as the SS?

A No, only SS members.

Q What office handled the records of the prisoners?

A It was department No. 2.

PRESIDENT: Are there any further questions by members of the court? Apparently not. Redirect.

REDIRECT EXAMINATION

QUESTIONS BY MR. O'CONNOR:

Q Mr. Nowitzki, when you say there were no executions in 1942 during the time you were there do you mean there were no executions by a firing squad, or no executions at all?

A As I already said, I don't know of any.

Q Of any kind?

A No.

MR. O'CONNOR: That is all.

EXAMINATION BY THE COURT

QUESTIONS BY COLONEL JACKSON:

Q When you say you know of no executions in 1942 do you mean by that official executions, or do you include all executions?

A I don't know of any executions of any kind.

REDIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q The prosecution has referred to its Exhibit No. 58-A which concerns the execution of 30 Russians by firing squad. What have you heard in connection with the execution of 30 Russians by firing squad?

A Nothing about it. Nothing at all.

MR. HALL: That is all.

PRESIDENT: Recross?

MR. BERKOWITZ: Nothing further, sir.

PRESIDENT: The court understands the defense has finished with this particular witness at this time?

DEFENSE COUNSEL: Yes, sir.

PRESIDENT: The witness will be excused.

(Whereupon the witness was excused and left the court room.)

MR. BERKOWITZ: If it please the court, Mr. Denson is presently engaged in a conference with General Gay. He is prepared to proceed from this point but is unable to be present in court. I myself am slightly indisposed at this time and move the court that court be adjourned.

PRESIDENT: The court will adjourn until 9:00 o'clock Monday morning.

(Whereupon the court adjourned until 0900 hours, 28 October 1946.)

CA/GI 13

Legal Form No. 8

MILITARY GOVERNMENT COURT

CASE RECORD.

FLOSSENBURG

Pages 5713 - 5778, incl.

Case No. ....

*~~Summary~~
*~~Intermediate Military Court~~
*General

Prosecutor ....

Defence Counsel ....

Place DACHAU, GERMANY

Interpreter ....

Date 28 October 194 6
0900 - 1530 hours

Reporter ....

~~Members of Court~~

WITNESS:
OTTO PAWLICZEK

Accused FRIEDRICH BECKER, ET AL.

Address .... Sex .... Age ....

	First Charge	Second Charge
Pleas		
Findings		
Previous Convictions		

Sentence
- Imprisonment
  - Term ....
  - Beginning .... 194....
- Fine
  - Amount ....
  - To be paid before .... 194....
  - or in case of default of payment to serve a *further term of .... imprisonment.

Charge Sheet and Record of Testimony are annexed hereto.

....
(Signature of member of court.)

REVIEW

Action of Reviewing Authority ....

....
(Signature of reviewing authority)

*Strike out words not applicable.

RECORD OF TESTIMONY

in trial of

THE UNITED STATES Versus FRIEDRICH BECKER, ET AL

by

GENERAL MILITARY GOVERNMENT COURT

tried at

DACHAU, GERMANY BEGINNING 12 JUNE 1946

28 October 1946 0900 - 1530 hours Pages 5715 - 5778, incl

TESTIMONY

WITNESSES:	Direct	Cross	Redirect	Recross	Court
OTTO PAWLICZEK	5715	5745	5776		

Camp Dachau, Germany
28 October 1946

MORNING SESSION

(Whereupon the court reconvened at 0900 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show all the members of the court are present; all the personnel of the prosecution and defense are present; all the accused are present except Buddensieg, Olschewski, Oswalt, Eisbusch, Lipinski, Jakubith, and Matzke, who are sick and whose interests are being taken care of by counsel. If there are any spectators in the court room who expect to be called as witnesses in this case, will they please leave the court room?

DOCTOR WACKER: The defense at this time calls the accused, Pawliczek.

PRESIDENT: Pawliczek, the court understands that you desire to take the stand in your own behalf, is that correct?

ACCUSED PAWLICZEK: Yes.

PRESIDENT: Proceed, Doctor Wacker.

OTTO PAWLICZEK, an accused, voluntarily took the stand in his own behalf and made the following unsworn statement through an interpreter:

DIRECT EXAMINATION

QUESTIONS BY DOCTOR WACKER:

Q Please state your full name.

A Otto Pawliczek.

Q How old are you?

A Thirty-two years.

Q Where do you live?

A My family is living in Ullersricht, near Weiden.

Q You are one of the accused in this case?

A Yes.

Q What number do you have?

A No. 34.

Q What is your civilian occupation?

A I was a carpenter by profession, but in addition to that I was a soldier.

Q Please describe to the court your professional career.

A I attended elementary school from 1920 to 1928. From 1928 to 1932 I served my apprenticeship as a carpenter.

Q Did you make your journeyman's examination?

A Yes, I passed my journeyman's examination toward the end of March, 1932.

Q Did you then practice your occupation as a carpenter?

A No.

Q Why not?

A Because at that time in 1932 there was a big unemployment and I didn't want to be unemployed.

Q What did you do then?

A So I volunteered for the 100,000 man Army and was in the Reichswehr.

Q Were you taken into the ranks of the Army?

A Yes, I was. I was drafted into the 1st company of the 7th Infantry Regiment in Oppeln on the 1st of April, 1932.

Q How long did you stay with the 100,000 man Army?

A I signed up for twelve years on the 1st of April, 1932, but I was discharged before that, before the twelve years were over, on the 28th of August, 1935.

Q What was the reason for your discharge?

A Because I couldn't fulfill the requirements at that time, I wasn't in a physical condition to comply with their requests and to do what they asked me to do.

Q What did you do after you were discharged from the 100,000 man Army?

A I didn't have any opportunity to practice my profession, that is, to work as a carpenter, and therefore I was performing various jobs. I was working as a laborer at a construction place.

Q Were you a party member at that time?

A No.

Q Did you join the party later?

A No.

Q Were you with the SS at that time?

A In 1936 I was told by the Labor Office that there would be a chance to be a soldier again as soon as the Waffen SS enlarged some place.

Q Did you then join the SS?

A Yes.

Q What was the reason for that?

A I signed up as a professional soldier due to the fact that the years of service with the regular 100,000 man Army were taken into consideration.

Q Did you then join the SS?

A Yes, I was drafted to the Waffen SS on the 1st of April, 1936.

Q Please give us a brief description of your position and duty with the SS up to January, 1942.

A I was drafted into the ranks of the Death Head Battalion Brettin-Torgau on the Elbe River on the 1st of April, 1936.

Q What were your duties there?

A I was doing the same duties as I did with the 100,000 man Army. It was a regular military outfit. For eight to ten weeks our battalion had to furnish guards in the concentration camp Liechtenburg.

PRESIDENT: Doctor Wacker, the court desires to clarify one point. The witness has testified that he volunteered for the Waffen SS and at the same time he testified he was drafted.

DOCTOR WACKER: I do not want to make any statement publicly. Go ahead and explain it.

ACCUSED PAWLICZEK: Of course at that time when I didn't get a job in my civilian occupation, in my profession, I volunteered for the SS in Gleiwitz.

PRESIDENT: So I am correct in understanding that you volunteered and thereupon you received your draft orders?

ACCUSED PAWLICZEK: Yes.

QUESTIONS BY DOCTOR WACKER:

Q Where were you sent after you left Gleiwitz?

A In 1937 the concentration camp Liechtenburg was deactivated. I'd like to correct myself at this point. It wasn't entirely de-

activated, it was converted into a women's camp.

Q Where were you sent then?

A In 1937,I could no longer remember the exact date, it could have been in the latter part of the year, the entire unit was transferred to Buchenwald.

Q How long did you stay in Buchenwald?

A Until the end of 1940.

Q Where were you then sent?

A Since I had a slight hernia and so couldn't perform my duties with the company any more, I was transferred to headquarters, concentration camp of Flossenburg.

Q How long did you stay in Flossenburg?

A I remained in Flossenburg until October 3, 1942, but I'd like to mention here that after September 21, 1942, I didn't perform any duties whatsoever at Flossenburg.

Q Mr. Pavlicsek, we will talk about Flossenburg some time later. Now I am asking you where you were sent on October 3, 1942?

A On October 3, 1942, I was transferred to the front to a division, Prinz Eugene.

Q Did you then participate in the various campaigns?

A I participated in the campaign in the Balkans with the division Prinz Eugene from 1942 on until shortly before the capitulation.

Q Were you in the Balkans all the time?

A I again fell ill and in 1944 I came back from the line unit. No, I made a mistake, I didn't exactly come back, but on the basis of my illness I was transferred to the replacement unit, to battalion No. 7.

Q Where?

A The 7th Replacement Battalion was stationed in Gradischka, in Italy.

Q Were you then discharged from the armed forces, or what happened next?

A I was transferred to the replacement battalion in 1944 and was working as an instructor there. On the 1st of April, 1945, I was ordered to Germany in order to participate in an instruction course for non-commissioned officers.

Q Please tell us something about the capitulation and about your discharge from the armed forces.

A On the 1st of April, 1945, I went to Germany from Italy in order to participate in the before-mentioned instruction course. After I had arrived in Germany and had reported to the combatant office in order to participate in this instruction course, and was given the answer that the instruction course would no longer take place due to the fact that the Americans were already in Germany. I was sent to the Division Nieberlungn from this office because I wouldn't have reached my old office if I had gone back to Italy, because they were already on their retreat.

Q Mr. Pawliczek, I don't think we are interested in those details. When were you discharged?

A There is something else I have to mention. As I already said before, I wasn't fit to be on duty with the front outfit and was classified as unfit for military service. I was examined by a doctor with the Nieberlungn Division because I had been assigned as platoon leader in the division which was to be newly activated. Furthermore, I had a certificate from the doctor in the front line

unit that I was not fit for military service, and therefore the doctor sent me to the discharge center of the Waffen SS Schleissheim in Munich in order to be discharged.

Q Were you then discharged there?

A Yes.

Q When was that?

A It was around the 14th or 15th of April, 1945, I don't remember the date any longer.

Q What did you do after you were discharged?

A I got my proper discharge certificate there and then we were waiting for the Americans to come. First I wanted to go home to Ullersricht where my family was living but there were some rumors and it was right, too, that the Americans, the advanced troops, were already in Weiden, so I didn't dare go along the road in order to reach my family . I decided to go to the house of a comrade of mine who had been discharged together with me and to wait for the Americans there. I went with this comrade to Oberondorf on the Salzach River. On the 5th of May the Americans arrived in Oberondorf. As soon as the Americans moved in there, that is, on the next day, the 6th of May, I reported to the Americans.

Q Did you report voluntarily?

A Yes. I even showed the Americans my discharge certificate from the SS and I didn't keep it a secret that I was an SS man. I showed them my pay book, too. I was afraid, that's right, because of the many seals and stamps of a concentration camp. I mean to say b, that due to the fact that I served in a concentration camp for one and a half years there were several marks and entries made in my pay book. The Americans looked at my papers

and my pay book but they didn't do anything to me. On the contrary, they gave me permission to go home.

Q Then you were again released from the Americans at that time?

A I wasn't arrested. I had reported voluntarily and I wasn't taken into custody when I reported. I was told the following: "At this time we can't let you go because there are too many American troops on the roads. You must have patience for a little while and you can continue your march on the 8th of May." And on the 8th of May I started off for Oberondorf on the Salzach River.

PROSECUTION: May it please the court, I object to this testimony on the ground that it is immaterial and irrelevant to the issues of this case.

DOCTOR WACKER: Well I do not think it is quite immaterial but I am just about to ask Pawliczek himself to make it brief. I think it is important to allow Pawliczek to make the statement that he reported voluntarily and wasn't taken into custody at that time, and he had a clear conscience.

PRESIDENT: The court will allow you to bring in a little background, but will ask you to get to the issue as quickly as possible.

QUESTIONS BY DOCTOR WACKER:

Q Please, Pawliczek, give a brief description of the time until you were taken into custody, but make it short, please.

ACCUSED PAWLICZEK: May it please the court, I'd like to make a statement that is very important.

PRESIDENT: What the court wants to know, Doctor Wacker,

is when he was taken into custody. If he wants to make a statement later he will be given the opportunity to do so. But we must get down to the material issues of the case.

QUESTIONS BY DOCTOR WACKER:

Q After you had been released by the Americans on the 8th of May, when were you actually arrested?

A In the morning of the 8th of May I left Oberondorf and in the evening of the same day I was stopped by the military police on the road. I showed them my pass, my permission which I had received from the Americans in Oberondorf. They told me, "Well, that doesn't count. You have to go back over to the control center." That was in Tittmoningen. That was a temporary prisoner of war camp. There we were examined by the military police. We had to take our clothes off and of course they were looking for the SS, that is, they released the members of the armed forces but kept the SS. Of course I don't mean to say we had to take all our clothes off, but we had to free our upper part of the body and they were looking for the tatoos.

PRESIDENT: Just one moment. Let's avoid a lot of these details and get down to the material issues. The court is still in a quandary as to when he was taken into custody.

QUESTIONS BY DOCTOR WACKER:

Q Pawlicsek, were you kept there, taken under arrest, or were you released?

A I showed them my pass that I had been duly discharged from the SS and that I had a pass to go home, but they didn't let me go home. They sent me to work for a farmer for six weeks.

Q Please Pawliczek, try to answer my questions very briefly. Did you then work for that farmer?

A Yes, I was working for that farmer for six weeks, because I was told by the military government to report again after six weeks.

Q Did you report then?

A Yes, I reported because I had been told that after six weeks I would be released permanently.

Q Were you then arrested or released?

A Well, you couldn't exactly say I was arrested. After all, I reported voluntarily, but of course I was disappointed again. It was the same old story. They kept the SS and told us we had to go to Dachau and we were being released in Dachau.

Q Did you then go to Dachau?

A Yes, on the 10th or 12th of July, 1945, I was sent to a prisoner of war camp in Oerting.

Q Have you been in custody ever since?

A Yes, but I stayed in Oerting for five days only because we were told we had to go to Dachau in order to be released. I'd like to mention further at this time that all my papers had been taken away from me in Oerting by an American, my pay book and my discharge certificate.

Q Were you then sent to Dachau?

A Yes, on the 18th of July, 1945, the whole camp was transported to Dachau.

Q Have you been in Dachau ever since?

A Yes.

Q So the question of release wasn't taken into consideration any more?

A Well, I was supposed to be released here at Dachau. Doctor, there is another statement I'd like to make. On the third day after my arrival here in Dachau, a prisoner commission consisting of about 500 former concentration camp prisoners, arrived in Dachau and everybody from Camp Dachau had to march by the prisoners individually with intervals of about ten meters.

Q Were you ever classified at that time?

A Several of them picked out three or four hundred men. I was recognized by the men but they didn't do anything to me, they didn't harm me and they didn't report me to the Americans. After the screening we were supposed to be released, but then the word went around that everybody who had served in a concentration camp had to go to a special camp. They ascertained our personal data there and everybody had to tell them how long he served in the concentration camp, and so I am still under arrest today. And of course there were several capos in the special camp and today I know why I was denounced by them. Because the prosecution promised them they would be released if they denounced me.

PRESIDENT: Pawliczek, answer the question of your defense counsel. At a later period if you wish to make a statement the court will give you an opportunity.

QUESTIONS BY DOCTOR WACKER:

Q What military rank did you have when you were discharged from the armed forces? I would like you to answer my question.

A I was discharged with the rank of master sergeant but

at Flossenburg I was a technical sergeant.

Q What rank did you have when you got to Flossenburg?

A I arrived at Flossenburg with the rank of sergeant.

Q What was your rank on January 1, 1942, in Flossenburg?

A On January 1, 1942 sergeant.

Q What were your duties on January 1, 1942, at Flossenburg?

A I was a block leader.

Q Which block?

A I was in charge of block 2 for a while and then block No. 8.

Q At that time, on January 1, 1942, were the buildings standing in the same manner as it is shown on this map, Exhibit No. 5?

A No.

Q Please show the court on the map what was different at that time.

A When I left Flossenburg in September, 1942, the fence around the prisoner compound went like this (indicating). There was a double wire fence but no electric wire.

PRESIDENT: Just a moment. For the purpose of the record you are going to have to indicate what was pointed to. You had better give Doctor Wacker some assistance there, Mr. McKay.

MR. MC KAY: Let the record show that the witness has indicated a wire fence which is identical with the plan except that the fence extended from the top of Prosecution's Exhibit No. 5, which is indicated as a tower, straight down behind a row of

barracks and extending down the side of the brothel, excluding that part of the plan which indicates "Shops", the figures above it, and the blocks designated as blocks 20, 21, 22 and 23.

QUESTIONS BY DOCTOR WACKER:

Q So that these buildings which were excluded according to your description did not exist at that time?

A Well they did exist but they weren't kept for anyone to live there. It was a personal effects chamber and things like that. This building over here, this one, and this did not exist (indicating).

MR. MC KAY: Let the record show that the witness pointed to blocks with the No. 24-A and a small block immediately above block No. 6, without a number, running perpendicular to block No. 6, as not existing.

QUESTIONS BY DOCTOR WACKER:

Q In which blocks did you work?

A In this block over here, Block No. 2 and Block No. 8. This number over here isn't right (indicating). Well, I was there. The blocks had a different number.

MR. MC KAY: Let the record show the witness has indicated a block with a figure 2 in red and a second block with the No. 10 indicating that the block with the No. 10 was block 8 during the time he was in the camp.

QUESTION BY DOCTOR WACKER:

Q Why were the numbers different at that time?

A Because block 8 and block 9 over here (indicating) were work shops.

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QUESTION BY DOCTOR WACKER:

Q Why were the numbers different at that time?

A Because block 8 and block 9 over here (indicating) were work shops.

MR. MC KAY: Let the record show that the witness has indicated a block with the No. 8 in red and another block with the No. 9 in red as being work shops.

QUESTION BY DOCTOR WACKER:

Q Well, the conditions so far as the buildings on this map are concerned, were the same while you were there? I am always talking about the time from January 1, 1942 up to the end of September, 1942.

A Yes, but the brothel didn't exist yet.

MR. MC KAY: Let the record show that the witness has pointed to a figure at the lower end of the enclosure, identified as prisoner compound enclosure, which carries the word brothel in red, which was not in existence at that time.

ACCUSED PAWLICZEK: And the house of the block leader wasn't on the left, but on the right side. (Indicating)

MR. MC KAY: Let the record show that the witness pointed to a figure immediately preceding the gate entering the prisoner compound enclosure on the left side of the enclosure, as shown on Prosecution's Exhibit No. 5.

ACCUSED PAWLICZEK: The numbers of the blocks were as follows: 1, 2, 3, 4, 5, 6, 7. These are the old numbers. (Indicating).

MR. MC KAY: Let the record show that the witness has indicated blocks with the word "Block 1" in red and the figures 2, 3, 4, 5, 6, and 7, consecutively, on Prosecution's Exhibit 5, all being separate blocks.

PRESIDENT: The court will take a half hour recess.

(Whereupon the court recessed at 1000 hours.)

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Camp Dachau, Germany
28 October 1946

MORNING SESSION

(Thereupon the court re-convened at 1040 hours.)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present with the exception of Lt. Colonel Wilson, who is absent on business of the accused; and all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Lipinski, Jacubith and Matzke who are sick in the hospital and Pens who is at the dentist. The interests of the named accused are being taken care of by counsel. The interpreter and the reporter are also present.

If there are any spectators in the court room who expect to be called as witnesses in this case, they will please leave the court room.

PRESIDENT: Dr. Wacker, proceed.

OTTO PAWLICZEK, an accused, resumed the stand and testified further through an interpreter as follows:

DIRECT EXAMINATION CONTINUED

QUESTIONS BY DR. WACKER:

Q Please show on the map what was the difference in block 12 then, when you were there, as now at the present.

A (Indicating). This block which is assigned as the kitchen was not there in my day.

MR. MCKAY: Let the record indicate the witness has pointed to Block 12 shown in red in Prosecution Exhibit No. 5. This being

the block which was not there when he was there.

Q Where was block 11 at that time?

A When I was there, block 11 was here at this point 18.

MR. MCKAY: Let the record indicate that the witness has pointed to a block with the figure "18" in red and a cross in red, on Prosecution Exhibit No. 5.

Q Is that the block about which the witness Ejsmont spoke?

A Yes; I assume so.

Q Were the other buildings the same?

A When I was there blocks 11, 12 and 13 had wire fences and there were prisoners of war inside there, -- Russians. The only one allowed inside these enclosures was the staff sergeant Friese. He had the keys to that enclosure in his pocket.

MR. MCKAY: Let the record indicate that the witness has pointed to blocks with the figures in red, "18, 17 and 16", on Prosecution Exhibit No. 5, as being surrounded by an enclosure and that in these blocks Russian prisoners of war were kept.

Q What kind of duties did you have when you were in Flossenburg, from the period of 1 January until you left Flossenburg?

A I was a block leader and a detail leader.

Q What block did you lead?

A Block 2, and at the end, block 8.

Q What did you have for duties in that capacity?

A As block leader, I had the following duties: As block leader, I had to hold a roll call of the cells, morning, noon and night, that is, only in regard to my own block. During the day, I didn't have anything to do with the block and I worked as a detail leader.

Q What work detail did you have charge of there?

A You mean starting the year 1942?

Q Yes, restrict yourself to the year 1942.

A When I was there then I had charge of the unloading detail.

Q Where did this detail work?

A At the railroad station in Flossenburg.

Q What did you unload and what did this unloading detail have to do with the camp?

A Their duty was to unload everything which came for the camp, food and fuel and things of that nature.

Q What was the personnel strength of this unloading detail?

A Six prisoners.

Q Was there a capo with this work detail?

A Yes.

Q Was it a steady capo?

A Yes.

Q Who was it?

A Ratel Neumaier.

Q During what period of time was Neumaier capo of this work, this unloading detail?

A I often had conversations with him and in the course of these conversations I discovered he had arrived in Flossenburg in 1938 and had taken charge then and had kept this job until the year of 1943.

Q Was Ratel Neumaier the permanent capo of this unloading detail when you had this detail under your command?

A Yes.

Q How did the strength of this unloading detail come about? Were the people picked out every day or were they permanent workers there?

A Permanent workers.

Q Do you know what the witness Paul Tofmer testified here against you?

A I have something else to tell you about this work unloading

detail. The leader of the men who had charge also had charge of the loading detail.

Q How many people were in this loading detail?

A Around 40 people, but the personnel kept changing ; it could also have been 50 people.

Q Were they permanent workers or were they constantly changing about?

A They changed quite often.

Q Did they have Neumaier as their capo or did they have a different capo?

A They had a separate capo because they were a separate detail.

Q Can you name the capos who had charge of this loading detail?

A Unfortunately I can't; I wish I had them.

Q Did you hear Paul Toffner here testify against you, in effect, that a Pole had been so badly beaten at the unloading detail , that you had beaten him so badly he had to be taken to the hospital and died there?

A Yes.

Q What do you have to say about this charge?

A It is completely a lie.

Q Do you know Paul Toffner?

A Yes; I learned to know him here in the special camp.

Q Was he ever either present at the loading or unloading detail at all, in any day in 1942?

A When I had this detail, he was never there with the unloading detail. I didn't know him at all in Flossenburg.

Q Did you give this Neumaier an order to beat Paul Toffner as Toffner here testified?

A This testimony is completely false and just as big a lie as the other one.

(Pavlicsek-Direct)

Q Tofmer said that you reported Neumeier because he refused to beat this Pole, as you ordered, and as a result Neumeier got 25 blows with a stick. What do you have to say about that?

A I never reported anyone. I am glad I still have time to call Neumeier here as a witness for me.

Q Please answer the question directly. Did you ever report Neumaier Neumeier?

A No.

Q Did Ratel Neumeier ever get 25 blows with a stick?

A As far as I am concerned, he never got any blows with a stick from me or because of me.

Q And could he get 25 blows with a stick in regard to this incident if there had been no report?

A If I had made a report, he would have got 25 blows with a stick for it without any more to do about it, but no such incident ever took place at the railroad station.

Q Do you have anything else to say about this incident, supposed to have taken place at the railroad station, or with regard to the testimony of Tofmer?

A Tofmer maintains this incident took place in October 1942.

Q When did you leave Flossenburg?

A I left Flossenburg on the 3rd of October 1942.

Q When did you stop performing your duties as block leader and detail leader at Flossenburg?

A On the 21st of September 1942, I got leave, replacement leave because I was going to be sent into action, and from that day I never had any duties in Flossenburg.

Q Do you know that the witness Paul Tofmer also testified here that he also saw you in Flossenburg in the year 1943?

A Yes; he said he saw me but I was not in Flossenburg in the year 1943. I left Flossenburg in 1942 and I never was there in 1943 at all.

(Pawliczek-Direct

Q After you had been sent to the front, did you ever return to Flossenburg again?

A I never had anything to do with the concentration camp since the day of my departure. However, I did get leave from the front and I went back to Flossenburg because of my family which is there and my house is there.

Q Did you do any duties in the camp then?

A I did not take any orders from the camp any more; I did not have anything to do with the camp.

Q Do you have anything else to say about this incident at the railroad station?

A I can't think of anything else. All I can say is that it is a figment of his imagination. I can prove that because this Neumaier will appear under me as a witness. He can prove it is completely untrue.

Q Do you still remember the testimony of Ejsmont who testified here against you?

A Yes.

Q Do you remember that the witness Ejsmont testified that you took part in the shooting to death of Poles?

A Yes.

Q When did this execution by musketry of the Poles take place?

A As far as I know in the year 1942 the executions by musketry at the crematorium didn't take place any more.

Q Did you ever take part in such executions by musketry before 1942?

A No.

Q And in 1942?

A I didn't take part then either. Ejsmont maintains I took part in these executions by musketry in the spring of 1942, but I will bring proof to prove that in the spring of 1942 I wasn't in

Flossenburg at all.

Q Weren't you in Flossenburg in the spring of 1942?

A No.

Q Where were you at that time?

A I was in a hospital in Berlin, Licherfelde West.

Q What was wrong with you?

A I had an illness of the nerves.

Q When did you leave Flossenburg?

A You mean to go to the front?

Q No, with this sickness.

A I cannot remember quite exactly. I spent Christmas of 1941 in Flossenburg.

Q And when did you leave then?

A It was just before the New Year. It was the 28th or 29th of December, just before the next year, in 1941.

Q Where did you go?

A I went to the SS Hospital, Berlin Lichterfelde West, Unter den Eichen Street, No. 2.

Q How long did you stay?

A I stayed in Berlin until the end of April or the beginning of May.

Q When you were released from Berlin, did you return to Flossenburg?

A Yes.

Q What was your state of health then?

A I was in very good shape actually and I recognized that I would be considered capable of going to the front.

Q Did your illness have any influence with regard to the duties you had to perform in Flossenburg?

A I can't say that, no. I had an argument with the lieutenant of the SS at that time, Schoerner is his name, first name Rudi. I would

not like to explain this argument in detail because I would have to drag my family into it and I don't like to do that, but if the court asks me to do, I will certainly do so.

Q After you came back from the hospital in Berlin, did you take up the same duties as you described here before the court?

A Yes. The doctor in Berlin sent a document along which explained therein that I should be released of the former duty and that I should receive a lighter duty in Flossenburg.

Q How would that duty as a member of an execution squad, -- how would that be considered? As a light duty or a heavy duty?

A I believe that would badly affect anyone's nerves, especially when already involved in a nerve illness as I was.

Q Do you know of anyone being shot to death in the year 1942, or anything about this?

A I am speaking about executions through musketry. None that I know of took place. There are other cases of shooting to death which took place, but they are not official executions.

Q When you say that other people were shot to death, but not through official execution squads, whom are you talking about?

A I mean, for instance, when a prisoner would appear to escape and be shot to death trying to escape.

Q In the year of 1942, did other executions take place, not considering those which were executed by musketry?

A Yes; unfortunately I must also touch upon this point.

Q Did you ever take part in any such executions?

A No.

Q Where did these executions take place?

A They were executions by means of injections.

Q Did you have anything to do with these executions at all?

A No.

Q Did you have anyt ing to do with this charge against you which the witness Ejsmont made that you took part in these executions through

musketry of Poles?

A Ejsmont maintains he saw me going towards the crematory with 40 Poles. He maintains I gave him 96 blows with a stick.

Q Pawliczek, we will touch upon that later. I am just asking you whether you have anything further to state regarding whether you took part in these executions of Poles by musketry.

A I cannot say anything else about that except to say it is a complete figment of his imagination.

Q Did you hear the testimony of the witness Novintzki who said these executions took place under the charge of Aumeier?

A Yes.

Q Do you know when Aumeier was in Flossenburg?

A Yes.

Q When?

A Aumeier didn't have any more duties from Christmas 1941. I wasn't in Flossenburg any more at that time. I was already in Berlin but heard my comrades talk who said that Aumeier left 5 January 1942.

Q Pawliczek, I want to remind you once again of the witness Ejsmont who said you badly treated the prisoners and that you beat them. Do you still remember this testimony?

A Yes.

Q First of all, I want to ask, did you know of Ejsmont himself?

A I never knew Ejsmont at all.

Q Among other things, Ejsmont testified you gave him 96 blows with a stick?

A That is what he said, yes.

Q Did any such incident ever take place?

A No. It is my opinion that if I ever had given him 96 blows with the stick, with the stick as thick as the leg of a chair, as he maintains, then he would have died of it. He would have had had some

permanent injury; but he never mentioned any injury in front of the court here.

Q Did you ever find out about the prisoner being beaten with the leg of a chair, or stick, who had blows up to 96 blows?

A I would like to see any prisoner who was ever beaten with the leg of a chair and who counted the blows himself, all 96 of them, and if that ha pened, I would like to know whether he remembers them in all detail, after it all happened.

Q Did you ever beat Ejsmont after the first of January 1942 at all? I have to mention that because Ejsmont said this incident with the 96 blows took place before that date.

A Doctor, Ejsmont maintains these incidents took place shortly after his arrival in 1941.

Q That is why I am asking you whether you ever hit Ejsmont at all, any time after the 1st of January 1942?

A No. I don't know Ejsmont at all.

Q Did you beat other prisoners?

A Yes, that happened.

Q What reason did you have for these beatings like that?

A For instance, when I would go into camp and the eldest would say that such and such a prisoner has had some of his things stolen, such as bread, then, "it is my idea, opinion, you have to take steps".

Q Why didn't you report a case of this nature to the headquarters?

A Well, I must say we were different kind of people than the people were who had charge of us. We would rather hush up the matter and settle our differences among ourselves, even if we had to give a few boxes on the ears, because if we had reported these things to the headquarters, then I believe at least 50 prisoners would have been hung a day.

Q Were you allowed to beat prisoners according to the rules?

A No.

Q What kind of regulation did you have in this regard?

A The leader of the protective custody department would give us instructions every evening after roll call.

Q Who was this leader of the protective custody department during the period from the 1st of January 1942 until October 1942?

A Captain Fritsch, and for a period of time, 2nd lieutenant Schoerner.

Q Please describe to the court what instructions that you got on those occasions.

A I cannot give any more these instructions literally; but I can give the court a good idea about them. It ran like this: He said, "Boys you know if you guys brought in a prisoner and harmed them in any way, I cannot save you from the consequences and I will have to report you to the highest headquarters, that is, Berlin. You should not harm a prisoner; you should not touch a prisoner in any way, and I am giving you an order to report over any misdemeanor, but don't mistreat the prisoner."

Q Pawliczek, I must remind you on what you yourself said, that although you were ordered not to beat, still beatings took place. There were orders not to beat and yet people were still beaten.

A I believed that measures had to be taken on your own initiative in such circumstances as existed in Flossenburg at that time, and we block leaders had to take some measures on our own in order to maintain peace and quiet in the camp.

Q Would it not have been possible to keep order in the camp by doing it according to regulations, that is, by camp reports?

A Yes, that was also possible.

Q What wasn't that done? Why were people nevertheless beaten?

A Because it was clear to us that we could accomplish the same

thing with other means.

Q Why did you consider beatings a better means of keeping order than making reports?

A As I already explained, if a prisoner committed a misdemeanor and we had reported it to the headquarters, he would have had at least gotten 25 blows or else suffered weeks of confinement in the bunker, or probably if the offense was repeated, ended at the gallows.

Q In the year of 1942, what kind of prisoners did you have for the most part there?

A When I was there, most of the prisoners were Germans. When I was there directly in Flossenburg, the number of prisoners was 3,000 or 3,200.

Q Can you roughly estimate how many Germans and how many foreigners were among these prisoners then?

A I gave this without counting the prisoners of war camps. I didn't mention them.

Q Were these prisoners of war still segregated from the other prisoners at that time?

A Yes, they were kept off by themselves.

Q Was it at the camp which you designated there on the chart?

A Yes.

Q Weren't there any ordinary concentration camp prisoners in this enclosure which you pointed out there?

A They were Russian prisoners of war.

Q At that time were there other prisoners of war quartered in the rest of the camp?

A Well, there were Poles there. I don't know whether they were prisoners of war or not. That is more than I know, and there were Czechs of course.

Q Estimate the percentage of German prisoners and the percentage

of ordinary prisoners?

A You mean including the Russians?

Q Forget the Russians; that was a compartment all by itself.

A It wasn't exactly a division by itself; it still took orders from the leader of the protective custody, but as a rule when they spoke of the main camp, they did include it.

Q How many prisoners were in Flossenburg at the time you were there?

A Around 5,000.

Q How many of these were Germans?

A Including the Russian prisoners of war, all in all, about 1/3 were Germans.

Q What was the percentage of Germans in your block?

A Not only in my blocks but all the blocks the majority of prisoners was German.

Q As a rule what did most of these prisoners consist of? That is to say, what did most of them wear, a red triangle or a green triangle?

A I don't understand your question, doctor.

Q What did most of these prisoners consist of?

A You mean their nationality?

Q No, I mean the reason for their arrest.

A That is more than I know.

Q Please explain to the court what kind of prisoners you had in your block?

A I don't know what you mean by that, doctor.

Q I want to make it clear to the court what reason you had for maintaining that it is better to beat a prisoner than it is to report him.

Q As I already mentioned, if we carried out the orders given to us many more prisoners would have died than already died, and that is clear. We even called meetings, the block leaders, the capos and the

block eldests and would say to each other, "It is well for us to keep order or lice and filth will attack us, but we will do it by other means than reports".

Q Did the prisoners know that the leadership of the camp had forbidden the leaders and capos to beat anyone?

A I assume that they knew it; I knew it myself.

Q Did the prisoners know they had a right to make a complaint if they were beaten?

A Yes, they knew that.

Q Did they make a complaint after they were beaten?

A Such cases often took place, but after a prisoner was beaten he would rather keep quiet because he knew and realized things would take place if we made a report about it.

Q How many times did you beat prisoners in that period of time in 1942 when you had duty?

A Doctor, you sure ask a lot of me.

Q Estimate the cases.

A That is very hard to do.

Q Was it ten or say a thousand.

A First of all, we will talk about it in February 1942.

Q Did you say February?

A Begging your pardon ....

Q I am talking about ....

A The 1st of January.

PROSECUTION: I am objecting to the counsel leading the witness in the manner which has just been demonstrated.

DR. WACKER: I believed I was calling an error on the part of the witness which was apparent. When he said February it surely was an obvious error.

PROSECUTION: I do not know whether it was an obvious error or not. The only error so far as his testimony is concerned is

whether or not this can be believed or whether the testimony as to other witness is to be believed, that is a matter for questioning.

PRESIDENT: This court is after the facts, Mr. Prosecutor, whether they are brought out by the defence or whether they are brought out by the prosecution. The court desires the actual facts. Objection overruled.

(Witness answering.)

A That was a slip of the tongue. I meant to say the 1st of January 1942, just as the charges read.

Q Pawliczek, please estimate the number of times you beat prisoners during that period.

A Between the 1st of January 1942 and the beginning of October, 1942, it would take place two or three times a week.

Q Please multiply these two or three times a week and give us the total times you beat prisoners when you were in Flossenburg during this period of time.

A Around 40 to 50 times. Because, as I said, from the 1st of January 1942 until April, I wasn't present in Flossenburg.

Q Because of your illness?

A Yes, that is the time I was in Berlin.

Q What reasons, what incentives did you have to beat people like that? Please give the court any reasons you had for it.

A The necessity for not reporting people who stole from their comrades.

Q How many cases of that type are included in these 40 to 50 incidents?

A Such cases often took place.

Q Please estimate the number of these cases of theft.

A Theft cases took place every day.

Q I mean how many cases of theft are included under these 40 to 50 incidents?

A That would probably be the majority of these cases.

Q What other reasons did you have to beat anyone?

A People who tried to avoid their work, people who didn't report to their place of work but hid in order to scrounge up something for themselves. And I believe if I had reported incidents of that nature, they would not have been locked up because of it, but hung.

Q How did you beat the prisoners, in what manner?

A With the hand.

Q You never used any kind of object?

PROSECUTION: I object to counsel leading the witness.

PRESIDENT: Objection sustained. Dr. Wacker you will have to avoid that.

DR. WACKER: I withdraw the question.

Q In what manner did you beat the prisoners with your hand?

A With my open hand I beat them.

Q Please give the court more the details of how you beat the prisoners so that the court can find out with what force you beat them?

A You can't demonstrate it like that. I need someone to use here as a model. If I would haul and pretend I was going to hit someone, you can't describe it like that.

Q What were the consequences of these blows?

A What do you mean consequences? There weren't any consequences. The most he ever would do would be to cry. He would cry, of course. He was afraid, of course. And it often happened before I drew back to hit, he would fall down on the ground, that is, before my hand hit him at all.

Q What do you mean?

A I meant they wanted to keep out of it like that.

Q Did prisoners who were beaten like that ever have any impairment of their health because of it?

A No. I believe if prisoners had impairments of health because

I had beaten them, then I believe I would have worn the uniform for the longest time.

Q Do you have anything else to mention to the court with regard to these beatings?

A All I can say here is that if anyone says a prisoner was beaten in Flossenburg so badly he died because of it, that is a lie. That is, nobody was beaten that badly when I was there and I certainly have no reason to protect the block leaders, the capos or block eldests when I say that. There was no way out of it. If I went out with 50 prisoners and came back with 49, then they would immediately ask me "Where is the one missing". Then I would have to give a reason why he was absent. And if I would have to carry him back and he was still alive, they would say, "What happened to him?", and you can then imagine what would have happened to me.

Q Did the people who ran the camp know that the capos and block leaders acted like they did? That is to say, that they did not carry out these strict orders to report anyone who committed a misdemeanor?

A They didn't know about it. The camp leadership wanted us to make reports and if they found we were not making the reports they would naturally have punished us for it. And in order to stop these misdemeanors we had to do something and we chose to do it on our own way.

Q Do you have anything else to say in regard to the testimony of Ejsmont?

A Ejsmont testified that, -- he claims he saw me beat prisoners

badly but he also says in that connection I was working in the stone quarry. How could he say I beat prisoners there every day.

Q Do you have anything else to say?

A It is a complete fabrication of falsehood. I have something else to say. I can say this witness Ejsmont knows me about as little as I know him.

Q Was he in your block?

A According to his testimony he lived in block 11, and only Russian prisoners of war lived in 11. There were never any Poles in block 11.

Q Can you give us any clue as to what block Ejsmont was referring to when he said 11. Do you think he said 11, as on the chart, or do you think he said 11 referring to when the markings were different?

A I understood it to mean he was referring to the block which is now marked as 18, but even if he were now referring to 11 marked there, they would not be right either.

Q Were you ever a block leader in block 11, as it is now marked or in block 11 as it was at that time?

A No. I would like to say something to the court. Before this witness Ejsmont appeared here as a witness against me, I knew nothing about it. I only noticed that when we were being led to the bunker during the recess a man would come up here as far as the railing and take a good look at us prisoners. He took a look at us prisoners and picked me out. And I assume that the only reason he did this was that when he took the witness chair he could look over there and say, "I recognise he did such and such a thing".

Q Before these proceedings started in this court, did anyone ever ask about those things which Ejsmont accuses you of?

A Do you mean when I was being interrogated before the trial started?

Q I mean did they characterize this as testimony against you from Ejsmont?

A I must say, doctor, that in regard to the charges brought against me before this trial started, I had completely different witnesses then.

Q Before these proceedings started, before this trial started, did anyone ever call your attention to the charges which Ejsmont was bringing against you?

A I already mentioned the prosecution never mentioned the name of the witness Ejsmont to me. The names of various Czech witnesses against me were printed on my charge sheet but no Czech ever appeared here as a prosecution witness against me.

Q Do you have anything else to state in regard to the charges of Ejsmont?

A No.

DR. HACKER: No further questions.

PRESIDENT: Does the defense have anything further?

MR. MCKAY: Nothing further.

PRESIDENT: Cross-examination?

CROSS-EXAMINATION

QUESTIONS BY THE PROSECUTION:

Q Pawliczek, when were you discharged from the 100,000 man army?

A 26 August 1935.

Q Wasn't that the year of 1933?

A As much as I can remember, it was 1935.

Q And you were discharged for being inept, were you not?

A Yes.

Q And you joined the Allgemeine SS in 1933, did you not?

A As you already know, or should know, Mr. Prosecutor, the 100,000 man army had nothing to do with politicals.

Q Will you answer my question? You joined the Allgemeine SS in 1933, did you not?

A No, I was with the 100,000 man army until 1935.

Q How many years did you serve with this army?

A Since the 1st of April 1932 until the 28th of August 1935.

Q And after you were discharged from the army, you joined voluntarily the SS, did you not, in 1936?

A Yes.

MR. MCKAY: Let the record indicate that Penz has returned to the dock.

(Witness continuing to answer.)

A Since I did want to work, I picked up my professional career of soldier so that I would not be a sponge on society.

Q After you voluntarily joined the death head's unit of the SS in 1936, you went to Buchenwald for training as a concentration camp employee, did you not?

A Not directly as a guard in the concentration camp.

Q As an employee?

A Not an employee; as I said, we were soldiers.

Q You were a foreman in the office of the commandant in Buchenwald, were you not?

A In the office I never did any clerical work at all.

Q Were you ever a foreman in the office of Buchenwald?

A As I already explained to you, during my whole 12 years career as a soldier, I never did any clerical work at all.

Q What work did you do as foreman in the concentration camp of Buchenwald?

MR. MCKAY: The question is objected to as calling for information immaterial to any of the issues in this case.

PROSECUTION: He has testified about going to Buchenwald and

I have a perfect right to find out the past history of this. If he has gone back to 1935 I certainly have a right to find out my side of it.

PRESIDENT: Objection overruled. The reporter will repeat the question.

(Whereupon the reporter repeated the question as follows:)

"What work did you do as foreman in the concentration camp of Buchenwald?"

(Witness answering.)

A I only can think of a foreman, when you speak of foreman, when I think of a prisoner. I was an SS man.

Q What rank did you acquire while you were in Buchenwald?

A Sergeant of the SS.

Q And you went directly from Buchenwald to Flossenburg, did you not?

A Yes. Because of my illness. Otherwise I never would have ended up in a concentration camp.

Q You were not ill when you volunteered to join the death head unit of the SS in 1936, were you?

A No.

Q And the death head unit of the SS was performing concentration camp duty in 1936, was it not?

A Yes. But we had military training just like any other troop of the army.

Q When you got down to Flossenburg, I believe you stated they had a prisoner of war camp there, is that true?

A Yes.

PRESIDENT: The court will adjourn until 1:30 this afternoon.

(Whereupon the court adjourned at 1200 hours.)

Ta 595 10-28-46
pls/1
Flossenburg

Camp Dachau, Germany
28 October 1946

AFTERNOON SESSION

(Whereupon the court reconvened at 1340 hours)

PRESIDENT: The court will come to order.

PROSECUTION: May it please the court, let the record show that all the personnel of the court are present; all the personnel of the prosecution are present, with the exception of Mr. Pinter who is absent on business of the prosecution; all the personnel of the defense are present. all the accused are present with the exception of Buddensieg, Olschewski, Oswalt, Jakubith, Eisbusch, Lipinski and Wetzke, who are ill and whose interests are being taken care of by their counsel.

If there are any spectators in the court who expect to be called as witnesses in this case, they will please leave the courtroom.

PRESIDENT: Colonel Denson, continuation of cross-examination.

OTTO PAWLICZEK, an accused, resumed the stand and testified further through an interpreter as follows:

CROSS EXAMINATION (continued)

QUESTIONS BY PROSECUTION:

Q Pawliczek, when did the Russian prisoners first come to Flossenburg?

A As far as I can remember, 1941.

Q Was that toward the end of 1941?

A Yes.

Q Was it along about November 1941?

A I can't tell you the exact month. It could have been September, October, or November.

(Pawliczek-cross)

Q Approximately how many did they have in the group?

A Around 1500 to 2000.

Q They occupied those three barracks that you pointed out to the court, is that correct?

A Yes.

Q They continued to occupy those three barracks during the time you were there in Flossenburg, is that not correct?

A Yes.

Q Those were three barracks, were ~~there~~ THEY not?

A Yes.

Q Were those prisoners worked out on the details as other prisoners were?

A As far as I can remember, one part of them went off to work in a stone quarry as stone cutters.

Q What happened to the others?

A They stayed in camp.

Q Approximately how many of those prisoners were there when you left in October 1942?

A I don't know.

Q In your best judgment was it as much as a thousand?

A I don't know anything about them because I had nothing to do with them. They were surrounded by a fence in a special camp and a sergeant had control of them.

Q Who was this sergeant?

A Sgt. Freese.

Q Isn't it a fact of common knowledge there in the camp that those Russian prisoners were crowded in this block and died like flies there in 1942?

A You can't say they were crowded. There was plenty of space for them. They were the same kind of barracks as were on all the other

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blocks.

Q Approximately how many did each of those barracks hold?

A When I was there, about 250 men were quartered on one block and there was plenty of space, besides that, we had a day room we kept free.

Q You mean the Russian prisoners had access to the day room?

A Of course.

Q How big was that day room?

A I estimate it was about as big as the dormitory.

Q Those dormitories were built for about 200 to 250 men, were they not?

A Yes.

Q In those three barracks there were quartered between 1500 and 2000 prisoners, were there not?

A Yes, but don't forget that as far as I know, the Russians also used the day room as sleeping quarters and that wasn't the case in the other blocks. As far as I know each one had his own bed.

Q As a matter of fact, you don't know what they had, Pawlicsek?

A Well, you can estimate according to other blocks, and when I was there each man had his own bed.

Q Were you ever in that block?

A No, I never care to this Russian block at all.

Q So you don't know whether they slept three men in a bed or one man in a bed, do you?

A I would have found out about that, all right.

Q But you actually never saw it, did you?

A Before they arrived we were there, fixing up these blocks.

(Pawlicsek-Cross)

Q When you were there, before the prisoners arrived, the blocks were built for 250 men, is that not true?

A In one wing would be about 125 people, that is half of the total number. There would be an "A" wing and a "B" wing.

Q Answer my question, please.

A I did answer it.

Q Will you read it to him?

(Whereupon the reporter read the last question.)

A Yes, that's the way they fixed it up but as far as I estimate, there was space left over.

Q And that's just an assumption based on your knowledge of the size of the block and not based on any personal observation, is that correct?

A I saw it with my own eyes.

Q When?

A When I was in Flossenburg.

Q When was the date, the last time, that you saw it with your own eyes?

A For the last time? I don't know what he means here, the Russian barracks or the other barracks?

Q We're talking about the Russian barracks.

A The 21st of September 1942, I saw the Russian barracks but only from the outside. I only saw the interior of these barracks when they were being fixed up before the Russians arrived.

Q You went back to the camp of Flossenburg itself after October 1942, did you not?

A Never.

Q You never went back to the camp of Flossenburg after October 1942?

A No, I didn't have anything more to do there.

(Pawlicek-Cross)

Q I didn't ask you whether you were on duty. I'm asking you whether you ever went back to the camp of Flossenburg after October 1942.

A No, I was at the front. I didn't have anything else to do with the camp.

Q You stated on your direct examination you came back to Flossenburg to see your family, is that not true?

A Yes, my house in the town of Flossenburg, not in the camp of Flossenburg.

Q And when was it you were back in the town of Flossenburg?

A I didn't come back, I was only on leave from the front, and after my leave was finished I went back to the front.

Q When was it that you were on leave from the front and came back to Flossenburg to see your family?

A That could have been two or three times.

Q Give the court those dates in your best judgment.

A It's hard to give you exact dates.

Q They are very important to us at this time, if you please, Pawliczek. Give us your best judgment.

A I can only tell you roughly.

Q All right.

A I had my first leave at Christmas, 1943.

Q Is that the only time that you came back to visit your family in Flossenburg?

A No, one or two times besides that.

Q All right, what were the dates of those two times, please.

A 1944, around Easter time. That was a convalescent leave, then on the 10th of April 1945. But I didn't stay in Flossenburg anymore at

that time, I stayed with my parents-in-law at Ulerisrich near Weiden. I had permission from headquarters to stay in Germany four days. I ha to go through Germany because I was coming from a foreign land, from Italy, and the purpose of the trip was to visit my family.

Q Capt. Fritsch was there when you were in Flossenburg, is that not so?

A Starting with 1942, yes.

Q Was Baumgartner there in 1942 also?

A Yes.

Q You understand English, Pawliczek, don't you?

A Yes.

Q You saw Fritsch and Baumgartner both beat prisoners, did you not?

A I can't remember exact instances but Capt. Fritsch was one of those kind that would put his hand out to someone.

Q Didn't you know that Fritsch was a beast who beat prisoners all the time?

A I never used this expression. You can look at it any way you want.

Q He did beat the prisoners, didn't he?

A Yes, he certainly beat them but I can't give you any specific instance.

Q And Schirner did the same thing, did he not?

A Yes.

Q What positions did they occupy in the camp at that time?

A They were leaders of the Protective Custody Camp.

Q So you beat the prisoners in order to avoid making reports, is that true, to Fritsch and Schirner?

A That's the way you can assume it.

Q Is that the way it was?

A Yes, that's the way it was.

(Pawliczek-cross)

Q And the capos and the block elders beat the prisoners in order to avoid making reports to you?

A That was a great risk for the capos and the block elders.

Q Just answer my question.

DR. WACKER: I believe there might be a misunderstanding here in the German word "you" and "they". It is the same and I don't know whether Pawliczek understands whether the question refers to himself or to the prisoners of this camp.

Q You understand English, Pawliczek, don't you?

A Just a few words here and there.

Q You, Pawliczek, beat the prisoners, did you not, in order to avoid making a report on them, is that correct?

A Yes.

Q The capos and the block elders beat the prisoners in order to avoid making reports on the prisoners to you, Pawliczek, and others in the same position, is that not so?

A Nobody had to be afraid of me. They only had to be afraid of the people who ran the camp.

Q You were running the camp for the camp commandant, were you not?

A I run the camp?

Q Your portion of the camp, Pawliczek.

A I only had 250 prisoners under my orders.

Q You were running those 250 prisoners for the camp commandant, were you not?

A Yes.

Q The capos in your detail and the block elders in your block of 250 men would beat the prisoners in order to avoid making reports against the prisoners to you, Pawliczek?

MR. MC KAY: The question is objected to, first for the

reason that it is repetitous and second, for the reason it calls for a conclusion of the witness.

PRESIDENT: The court didn't get the latter part of that, Mr. McKay.

MR. MC KAY: And the second reason, it calls for a conclusion on the part of the witness.

PRESIDENT: Read the question.

(Whereupon the reporter read the last question.)

PRESIDENT: Objection overruled.

A I assume that they hushed up many a thing and when a prisoner did something bad, they took care of it themselves so that the prisoners wouldn't be turned over to the camp administration.

Q You knew that the capos and block elders were beating the prisoners, did you not?

A Yes. Once in a while you could see it but they never beat anyone in an inhumane manner. Nobody was ever carried to the hospital, nobody ever died because of it. If a capo had done that, he would have remained a capo the longest.

Q He would have remained capo the longest, why was that?

A He would have immediately been relieved of his duties if he acted in an inhumane manner.

Q You just said he would have remained capo the longest.

DR. WACKER: This reproach being made to Pawliczek is not authorized because the translation doesn't correspond to the way Pawliczek meant it.

PROSECUTION: May it please the court, there is a proper way for objections to be made. This is the second time that the witness is being informed that the answers he is making

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PROSECUTION: May it please the court, there is a proper way for objections to be made. This is the second time that the witness is being informed that the answers he is making

are not according to what counsel thinks they should be and I think such procedure is grossly improper and I would be derelict in my duties if I didn't point that out to the court. I certainly think the court should take corrective action. He is trying to read this witness's mind.

PRESIDENT: Just a minute. Reread that sentence.

(Whereupon the reporter reread as follows: "If a capo had done that, he would have remained a capo the longest.)

DR. WACKER: That is exactly the point. That sentence where it reads "he would have remained capo the longest", that is, according to what Pawliczek said, incorrectly translated.

PRESIDENT: The court will consider any matters of improper translation, but questions as to what the witness intended to say, are a different proposition. If it is a question of translation, the court will give it consideration.

DR. WACKER: My objection is against the fact that the prosecutor took this false translation and gave it a false meaning and is holding it up against Pawliczek. That is why we get this whole mixup.

PRESIDENT: We will take this translation as the reporter has it. If there is any question about the translation, we will be glad to have you call that to the court's attention. Read the latter portion of that answer again.

(Whereupon the reporter again read the phrase, "he would have remained a capo the longest")

Is there any question about the translation as stated by this particular witness?

DR. WACKER: Yes, exactly. According to what he meant to state, this particular sentence is falsely translated.

(PawliczekCCross)

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PRESIDENT: The court is not considering the matter of what he meant to say, the court is considering exactly what he said. If there is any question of the translation, the court will consider it, but what the witness meant to say is another thing.

DR. WACKER: I must explain it like this. In the German language, the emphasis is important. If the witness says, "then he would have remained capo longest", then the translation is correct, but if he says, "then he would have remained capo the longest", then that is something else again. Then he means to say something else, and you have to translate it differently than if he had emphasized the same words differently.

PRESIDENT: Dr. Wacker, it will be necessary for us to rely on the interpreter to interpret the statement or answers of the witness, just as given, not what he meant. What the court wants you to do, Mr. Velte, is to verify that particular translation, not by asking this particular witness at the present time, because he was forewarned. Is there any question in your mind as to the accuracy of that translation?

INTERPRETER: That is the only way I can understand it.

DR. WACKER: I'd like to explain something else. If we had an interpreter here whose mother language was German, then the situation would be clear as day. I believe that German is the mother tongue of the other interpreter.

PRESIDENT: When it comes to redirect examination the court will give you the opportunity to ~~consider~~ CONSIDER the matter at that time, but the court must rely upon the translation given by the interpreter. If you desire to bring another interpreter on the stand, the court will consider that and there is another interpreter in the courtroom at the present time to verify that particular statement. But the court must rely on the interpretation of the interpreter of the court at the present time and

not what the particular witness meant to say. The court will give you an opportunity to cover that matter during the course of redirect examination.

Q Now, Fritsch and Schirner beat the prisoners in order to avoid making reports to whom?

MR. MC KAY: If it please the court, that is objected to as a conclusion. If I can use the prosecutor's former statement, it's trying to import to this witness what was in the mind of somebody else.

PROSECUTION: This is based on practise, may it please the court, a long continued practise.

PRESIDENT: Read the question.

(Whereupon the reporter read the last question.)

PRESIDENT: Objection of the defense counsel, Mr. McKay, is sustained.

Q Did Fritsch and Schirner make reports?

A To whom were they supposed to make these reports. They were the chiefs, the gentlemen of the camp.

Q Were they the highest officers in the camp?

A No, there was still the commandant of the camp.

Q And who was that?

A There was a Lt. Col. Kuenstler in my time. I don't know exactly when he was there, in July or August 1942 he went away, at any rate, and Fritsch took over his duties, represented him until the next commandant of the camp arrived. When I left Flossenburg in September 1942, Fritsch was still deputy representative of the camp commander. There wasn't any new commander yet.

(Pawliczek-Cross)

Q So, the camp commandants were Kuenstler and Fritsch.

A Kuenstler was the camp commandant but not Fritsch, exactly. He just filled up the spaces and took over until the commandant arrived. Fritsch was actually a leader of the Protective Custody Camp, [illegible]s

Q He was the camp leader from the time Kuenstler left until Koerel arrived?

A Yes.

Q These were the men who gave the instructions not to beat the prisoners, is that correct?

A It was general knowledge that it was forbidden to mistreat or beat prisoners. We should make reports, reports, and nothing else but reports.

Q You were actually instructed, were you not, that you were not to beat the prisoners?

A Yes, that's right, but we were human and we saw how the situation was, how the wind blew, and decided to avoid any misunderstanding we would handle it ourselves. When I say "we", I mean the block leaders, the capos and the block leaders. We had more or less an unwritten law among ourselves so we could avoid reports going into the camp commandant.

Q So you beat the prisoners by using rubber hoses, did you not?

A No, I don't believe anybody was beaten with rubber hoses. I never saw it.

Q You never saw, at any time while you were there at Flossenburg, a prisoner beaten with a rubber hose, is that right?

A I never saw that when I was there.

(Pawliczek-Cross)

Q Did you at any time see a prisoner beaten with a club?

A No, that was severely forbidden because, if a prisoner had been beaten with a club he would have visible wounds from it and the man who had beaten him, the detail leader of this commando where the man was working, would have to report it and report the reason for it and why it came about and you can imagine what would happen.

Q How many reports of the type you have described ever happened?

A I don't know of any.

Q Did you ever hear of any that were made of that kind?

A No.

Q Did you ever hear of a prisoner reporting an SS man for beating him?

A In one way the prisoners were glad that we would take care of these matters in this way and not report them to the command post, and they could see in such an instance that they deserved what they got.

Q In other words, that you would beat them with sticks or rubber hoses as the case may be, is that correct?

DR. WACKER: I have an objection against this question. The witness has already said he only beat prisoners with his open hand so I don't believe it's competent when directed like that.

PRESIDENT: Objection sustained.

Q How many prisoners did you kill while you were in Flossenburg?

A I didn't kill anyone.

Q You never, at any time, killed a prioner while you were in Flossenburg? Are you sure about that?

(Pawlicsek-Cross)

A When you say "kill", you're saying a little too much.

Q Tell the court what it was.

A I know what the prosecutor is thinking about.

Q Tell the court what it was.

A I'm the accused here, I'd like to have the prosecutor ask me questions.

Q Tell the court what it was, Pawliczek.

A I don't know exactly what he means, I can't read his mind.

Q Didn't you say you knew what I was thinking about?

A Yes, I assume I do. I assume that you are thinking the same thing I am but I don't dare answer it before I have the question because I don't know whether we are in accordance.

Q Then tell the court what you are thinking about, Pawliczek.

PRESIDENT: Just a minute, Pawliczek, you simply answer the question put to you by the prosecutor. At the same time, Mr. Prosecutor, if you desire anything definite answered, put it in the form of a question. At the same time, Pawliczek, the court will not insist upon your answering any particular question, but your failure to answer any particular question may receive an unfavorable inference or impression on the part of the court. Do you fully understand what the court has said to you?

WITNESS: Yes, I'm ready to answer any question.

PRESIDENT: Proceed.

Q Tell the court what you were thinking about with reference to the misconduct inquired about.

PRESIDENT: Mr. Prosecutor, the court suggests you rephrase that particular question.

Q Tell the court what you were thinking about when you stated that you knew what I was thinking about.

MR. MC KAY: If the please the court, I must object to that question as being argumentative and not in proper form.

PROSECUTION: I'd like to be heard, if it please the court. This whole matter arose with reference to statements made by the witness that he knew what I had reference to. Now, I have a perfect right to ask him what he has reference to. It's a perfectly proper question and the present objection based on the ground it is not in proper form is not a proper objection to the question that has been propounded to this witness.

PRESIDENT: Now, Mr. Prosecutor, the court is not particularly concerned about what this witness is thinking. What the court is interested in is facts.

PROSECUTION: Exactly, and the state of a man's mind, may it please the court, is as much a fact as what kind of eggs you had for breakfast this morning.

PRESIDENT: All right, Mr. McKay.

MR. MC KAY: The difficulty of Mr. Denson's question at this time lies in the fact that this man's period of time in Flossenburg covers a few months in the beginning and the prosecutor, by this form of questioning, is bringing up an action which may have occurred prior to the time in these specifications, and for that reason, it is argumentative and improper.

PRESIDENT: The objection on the part of defense counsel, Mr. McKay, is sustained.

Q Pawliczek, is it a fact that you did not kill anybody in Flossenburg while you were there?

(Pawliczek-Cross)

MR. MC KAY: The question is objected to as improper in form because it is not limited to the time covered by the charge and specification and it is repetitious.

PRESIDENT: Sustained.

Q How many people did you kill after January 1, 1942, how many prisoners?

A As far as I know I didn't kill anybody, not in 42.

Q How far do you know?

A I know it from my own knowledge.

Q Did you or did you not kill a prisoner after January 1942?

A No.

Q You stated a moment ago that killing was putting it a little too strong. What would be a better word?

MR. MC KAY: That's objected to as being improper in form for the reason it is an attempt to argue facts which have now been excluded from your question by the last objection I have made.

PROSECUTION: I stand on the record, may it please the court, there is nothing been excluded at all.

PRESIDENT: Objection overruled.

(Whereupon the question was repeated at the request of the witness.)

A I meant to say that I never killed any prisoner and I never beat any prisoner so badly he was brought to the hospital or he died of it.

Q Did you know all the prisoners on your work detail?

A I knew everybody in the unloading detail. There were only six men and they were always there.

Q What about the loading detail?

(Pawlicsek-Cross)

A There were always new people there relieving the old ones. The capos, of course, remained the same.

Q What was the average length of time those prisoners would serve on that loading detail, Pawliczek?

A How does the prosecutor mean - the time they spent working there in the daytime?

Q What was the average length of time that one of those prisoners was assigned to that loading detail?

A I didn't have anything to do with that.

Q You were commander leader of that detail, were you not?

A Yes, but we didn't know the prisoners on the loading detail at all.

Q Were you not in charge of that detail?

A Yes, of course.

Q Didn't you supervise their work?

A Yes, of course.

Q And you saw that detail every day, did you not?

A Daily? I didn't see them daily. I'd see them daily but I didn't have close contact with them and I wasn't in charge of them. Sgt. Winkler also had that job, the other detail leader at the [illegible] station there, too.

Q Is that the same Winkler sitting up there in the dock?

A Yes.

Q This loading detail used to load everything, practically everything that was sent out of the camp, did it not?

A No, that isn't true.

Q What did it do?

(Pawliczek-Cross).

A Only one part of the loading detail did loading work and they loaded up stones which arrived from the stone quarry which had been prepared.

Q And you, in supervising their work, would punish certain prisoners by making them carry stones that were far too large for them, did you not?

A Nobody ever claimed that up to the present moment and I never did that either. Nobody was every punished on the loading station. The people who were picked for that work detail were people who were glad to get out of the camp and went voluntarily.

Q All of these details were these which were used to reward prisoners who worked on them, is that correct?

A Not to reward them but they were glad to get out of the camp.

Q What were some of the details the prisoners didn't like to be on, Pawliczek?

A I said that wrong again. You can't say they were glad to go there but you can imagine that prisoners in the camp were glad to see a little freedom again. There wasn't any commando in Flossenburg to which the prisoners were glad to go to exactly but they were glad to get a little freedom, to get out of the camp and they preferred this detail.

Q What were some of these work details they did not prefer?

A I said there wasn't any work detail where they didn't want to go.

Q In other words, they wanted to go on all the details, is that correct?

A Yes, they didn't want to go to any, as I explained, but they would rather be free, of course, but they were glad to get out of the camp because in the camp it was all the same kind of work and they couldn't acquire any advantages at all.

Q Your detail worked in the stone quarry loading stones, didn't it?

A Quarry? I said the loading railroad station.

Q Did you ever, at any time, mention that your detail loaded stones from the quarry?

A That was misunderstood. If the prosecutor wants, I'll go into it in more detail.

Q Did your detail ever load stones on the train?

A Yes.

Q Isn't it a fact that they would carry these stones from the quarry to the railroad station?

A They didn't carry them, they were brought over by trucks. They were brought up by trucks directly in front of the railroad cars and the loading detail had only to put them on these carriers and load them into the trains.

Q Did your detail ever, at any time, work in the quarry?

A I already explained that the loading detail and also the unloading details only worked at the railroad station. We didn't have anything to do with the quarry except that the stones which arrived from the quarry by truck, those stones would be loaded into the cars.

Q Just answer the question, please, yes or no. Did your detail ever work in the quarry?

A I already explained that the loading detail and the unloading detail didn't belong to the quarry.

Q I didn't ask you whether they belonged to the quarry or not. I simply asked the question whether or not your detail, at any time, worked in the quarry.

(Pawlicsek-Cross)

A No.

Q You still have not answered the question, Pawliczek, as to what was the average length of time that a prisoner remained working on your detail or assigned to your detail?

A I can't answer that. I only know that the unloading detail, I knew them all, they were always there, they were steady workers, permanent, the whole time I was in Flossenburg.

Q We're not talking about these six men but about this other detail.

DR. WACKER: It isn't all translated. Part of what Pawliczek said has not been translated as yet.

PRESIDENT: Let's hear from the interpreter.

INTERPRETER: As far as I know that is the correct translation.

PRESIDENT: Read the last answer.

PROSECUTION: I'll ask the question again.

DR. WACKER: May I ask the interpreter something. He will know immediately then. He said Pawliczek said that the six people on the unloading detail were always the same people and he knew them but he wouldn't know the people from the other detail.

PRESIDENT: Is that the correct translation now? Does that satisfy you, Dr. Wacker?

DR. WACKER: Yes.

PRESIDENT: The court will take a short recess in place.

(Whereupon the court took a short recess in place.)

PRESIDENT: The court will come to order. Continuation of cross examination.

QUESTIONS BY PROSECUTION:

Q You beat prisoners who did not go to work, did you not?

A Yes, if they played hookey.

(Pawliczek-Cross)

Q You beat prisoners who did not work as hard as you thought they ought to work, did you not?

A How do you mean, work hard? Each work detail had its own capo who was especially picked for that detail. For instance, in the mason's detail they picked out a mason who knew all about masonry. I don't have any idea how such work is performed.

Q Who did you have working as capo of this loading detail?

A I can't remember his name anymore.

Q How many did you have?

A I can't remember. I believe it was always the same capo. Unfortunately, I would like to know the name myself. I would call him here as a defense witness.

Q How long did you have him?

A The whole time when I had the unloading detail in Flossenburg.

Q How many months was that?

A That was June, July, around until the middle of August '42.

Q You had him three months and you didn't know his name, is that right?

A You're adding an extra half a month there. It was only two and a half months.

Q You worked up until September, did you not?

A No, Sgt. Winkler had the work detail under his control the last days there.

Q Were you working for Sgt. Winkler?

A No, it was like this. One day such and such a person would have it, another day, another man.

Q So that both of you had it, is that correct?

A But not at the same time. It's misunderstood.

Q What was the last day that you worked?

A It may have been August when I worked there for the last time.

Q Didn't you tell the court this morning that you worked up until the 21st day of September?

A Yes, in Flossenburg itself, that's right.

Q What did you do between the 21st of August until the 21st of September?

A I worked in the camp.

Q Doing what?

A I had various details, cleaning up the camp details.

Q What else?

A The detail which was working directly in the camp at the time.

Q What did it do?

A As I already said, people who cleaned up the camp or masons.

Q What else was there?

A Road building.

Q What else?

A In this very minute I can't remember them but they were those details which I supervised on the side. Then, also, we had a duty as chief block leader. We would be the one who would sit in the blockhouse and count off the prisoners as they marched in and out to work.

Q During that time from August to the 21st of September you worked Czechs, did you not?

A Czechs? I was a commando leader. I never said anything about Czechs. I had the supervision of that particular detail which was in my own hand at that time.

Q The personnel of that detail that you had in your hand at that time were composed of Czechs and Poles, were they not?

A As I already said when I was there most of the people were Germans.

Q Did you have any Czechs or Poles in your details that were in your hand in this time between August and the 21st of September?

A It was possible there were Poles among them but I don't believe any other nationalities. Most of the Czechs worked up in the clerk's office, I believe.

Q This loading detail that you had worked near to where the unloading detail worked, did it not?

A Yes. In my time it was a lot different than it was in the latter times, as I saw it.

Q You were not there in the latter times so you don't know what it was, do you?

A When I was on leave I saw these guard towers. When I was there there weren't any guard towers. I saw these guard towers encircling the inter railroad station where the loading and unloading details were.

Q They both worked side by side?

A Yes, but in my time there was a space in between them. They were separated and as this witness, Paul Toermer said, for one prisoner to go from the unloading detail to the ~~loading~~ loading detail, that was impossible because there were guards in between and each detail, the unloading detail and the loading detail, had their own special guard.

Q How closely would they work together?

A It was about fifty meters in between the two details, and it was impossible for a prisoner to go from a loading to an unloading detail.

Q What made it impossible to go from one detail to another detail?

A It was impossible because the chain of guards was in between and no prisoner would have dared to have tried to get through the guards.

(Pawliczek-Cross)

Q How many guards were in between them?

A There weren't any guards in the commando itself. The guard was placed round about the work detail.

Q What was the line of demarkation between the loading and the unloading detail over which a prisoner could not cross unless he would be shot?

A How can I show that to you?

Q Describe it to the court.

A You can't describe it. If I don't have a map of anything, how can I describe it? I would like to describe it, Mr. Prosecutor.

Q The cars that were being unloaded on a particular track were very frequently being loaded onto other cars on other tracks at the same time, were they not?

A I'll try to describe it as best I can. The loading detail worked on a ramp and from this ramp where they were loading to the railroad station where they were unloading was about fifty meters in between, as I said, and nobody could get through there.

Q They had a crematory there at Flossenburg when you were there, did they not?

A Yes, I wasn't there, however, I only heard about it. I didn't have anything to do about it.

Q You knew that it was there, did you not?

A Yes, everybody knew there was a crematory there.

Q When was it built?

A I can't tell you anymore for sure. I believe it was the Spring of '41.

(Pawlicsek-Cross)

Q That crematory was operating most of the time, was it not?

A I don't know, I never did go down that way.

Q Where was the crematory located with respect to the office of the prison compound commander.

A May I show that to you?

Q Yes.

A When I was there, Department 3 and the leader of the Protective Custody Camp were here, in this. (Indicating on map on wall of courtroom)

PROSECUTION: Let the record show the witness has pointed out a building which is directly below the building marked "1" in black, and to the right and a little above the building marked "2" in black

A And here was the crematory. (Indicating)

PROSECUTION: Let the record show further the witness has indicated a building in the same vicinity as the building marked "7" on prosecution's Exhibit 5.

Q How many prisoners, Pawliczek, were hanged because of stealing it bread and other offenses for which you punished them by slaps or boxes on the ears.

A I don't know of any such cases. We did it on our own to prevent prisoners from getting into such a situation.

Q Who was it that performed these executions by means of injections?

A As far as I know it was Sgt. of the SS Herzog who is working here. He's in Bunker 1 working as a barber, but I didn't see that, I only know 1. that from hearsay.

Q That was a matter of common knowledge among the camp, w s it not? ners

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A I can't tell you that.

Q From whom did you hear about it?

A I heard about it from prisoners, that people were supposed to have died.

Q How many, approximately, did you hear were killed in that fashion?

A I don't know.

Q What is your best judgment?

A I can't tell you. It happened with a number of people and how it took place I couldn't tell you, I didn't see it.

Q It was more than once, isn't that so?

A I don't know how many times this Sgt. Herzog was supposed to have done that but he was supposed to have been there.

Q Did you hear about this on more than one occasion, from the prisoners?

A I can't tell you how many times I heard it but, as I said, I heard it from the prisoners in my block and they would say that some more had been executed that day.

Q While you were working there, it was a part of your duties, was it not, to see that the prisoners in your detail did not escape?

A I would like the question again.

(Whereupon the reporter read the last question.)

A What do you mean, I was never there in the crematory.

Q Not in the cremetory, in your detail.

A That's clear, just like the American guards check up on us now to see we don't escape, we had to see that none of our men escaped. That's clear, that's human, that's the way soldiers are.

Q It was human also, was it now, Pawliczek, to beat these prisoners in the way you did?

(Pawliczek-Cross)

A Where? Who said that I ever mistreat d prisoners? I never mistreated prisoners.

Q You did, Pawliczek.

A No, I didn't say that. I only said that I had hit prisoners. I never said I had mistreated prisoners and there is a difference as big as heaven between h tting a person and mistreating someone.

Q Was it human for you to hit prisoners the way you did?

A Yes, of course, as I have already said. We never beat anyone so that they would have an injury because of it and nobody was ever carried to the hospital because of it and nobody ever died because of it.

Q Was it human, Pawliczek, for you to permit the block elders or capos under you to beat the prisoners in the way they did?

A I never saw the capos beating. I assume that the capos must have done some hitting according to the testimony which has been brought here but I never saw any particular instances myself. But no cases ever occurred where, for instance, a capo would beat a prisoner so badly that a prisoner would have died. If that had happened, he would have been relieved from his duties.

Q You never saw a capo, from the time you were in Flossenburg, from 1942 on beat a prisoner?

A I can't remember of any case, otherwise I'd tell you, Mr. Prosecutor.

Q Did you ever see at any time a block elder beat a prisoner in the block in which you exercised supervision, from January 1942 un until the time you left Flossenburg?

A I never heard about anything like that.

Q Did you ever see it?

A No, and if they had beaten anyone, if they had beaten anyone so badly he had to be taken to the hospital, or the party in charge would have died, I would have known about it and I would point him out in court and talk about it without any qualms.

Q These 40 or 50 people you beat from the time you were there, from January 1941 on, did anybody of them ever make a report about it to your commanding officer?

A If I had reported these cases and told what misdemeanor the prisoner was guilty of, the same reason I had punished them, they would have been punished more severely. But I didn't report it, I tok care of it myself.

Q Just answer my question.

A I don't believe that was done. If they had reported avone, they would have reported themselves because they only got the lows that they deserved, you might say. And they knew that if theyreported these instances they would at least get 25 blows with a stick cross the wooden horse or else they would be punished by the leaderf the Protective Custody Camp.

Q But the prisoners of your camp received 25 blows ovethe horse, did they not?

A No, I didn't say that.

Q I didn't ask you whether you said that. I asked yowhether it was so.

A No.

Q Now, between January 1, 194[illegible] and the time that yoleft in October 194[illegible], were there any executions of prisoners by ooting?

A I don't know of any cases.

Q Would you have known about it if they had takerplace?

A Yes. Even if I had been absent, then I would ave found out about it.

Q No further questions.

PRESIDENT: Redirect?

MR. MC KAY: If it please the court, due to the fact that this accused made certain references about capos and block elders elders

(Pawl esek+Cross)

I request the permission of the court to examine him to protect the interests of the former prisoners I represent.

PRESIDENT: The court will give you an opportunity after Dr. Wacker has completed his redirect examination.

Dr. Wacker?

(Whereupon the reporter was handed a sketch which she marked as Defense Exhibit No. 34 for identification.)

REDIRECT EXAMINATION

QUESTIONS BY DR. WACKER:

Q Mr. Pawliczek, I hand you a sketch and I ask you what that is?

A That is the loading railroad and unloading railroad in Flossenburg.

Q All in all is this sketch correct?

A Yes, it's just about right.

Q Tell us where the loading detail worked and where the unloading detail worked.

A The unloading detail worked just about up to this point.

Q Please mark that with a dotted line.

A I'll mark where the last guard stood. (Indicating) The unloading detail had their place of work up 'til this point. (Indicating).

Q Did a chain of guards stand around this unloading detail?

A The unloading detail had three guards.

Q Please put the numbers 1, 2, and 3, where these three guards had their place of duty, where they stood.

A I must mention here that all three guards didn't stand guard duty at the same time. They relieved each other. Only two guards were on duty.

Q Please mark the place where these two guards stood with the numbers 1 and 2.

(Whereupon the witness marked the Defense Exhibit No. 34 as requested.)

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pls/30

Q Was there a chain of guards around the loading detail, also?

A Yes.

Q Where did the guards stand over there. Please mark the spot where these guards stood with the following numbers - 3, 4 and 5, or whatever it was.

A Wouldn't there be a misunderstanding here, Doctor, if I continue giving the sequel numbers, then it would be understood that all the guards formed one chain of guards together, in sequence, but they were separate.

Q Did the guards in the loading detail stand guard at the same time the guards in the unloading detail stood guard?

A They took over their guard duty at the same time and in the evening they went off shift at the same time.

Q Then mark the guards at the loading detail with an "A", "B" and "C".

A I must mention that the loading detail had seven guards and these guards relieved themselves mutually. There were only four guards standing there. I must say that this sketch isn't complete, not enough room.

PRESIDENT: Give him a chance to write on the table there, if necessary.

Q Were the prisoners in the unloading detail forbidden to go to the loading detail?

A First of all, it was forbidden and secondly, we always instructed them if they would try to get across they would run into danger.

Q What do you mean, "danger"?

A The guard would assume that the prisoner was trying to escape because prisoners were supposed to stay at their place of work.

(Pavlicsek-Redirect)

Q Did the same thing hold true for persons who came from the unloading detail?

A Yes. The prisoners knew that as well as the guards, that a guard had a right to shoot at any prisoner attempting to escape.

MR. MC KAY: For the purpose of clarification, let the record show that the sketch which has been handed to the witness and upon which he has made certain marks, is Defense Exhibit 34 for identification.

Q Mr. Pawliczek, I ask you to mark on Defense Exhibit 34 for identification, a "U" where the unloading detail worked and mark an "L" at the spot where the loading detail worked, in the place where they worked.

A I would like to mention here that the loading detail was only allowed to go this far (indicating) and nobody was allowed to cross the line you could draw between here, the guard "D" and the guard "B", and that was the space that separated the details.

Q I ask you then to draw this line with ink.

MR. MC KAY: At this time I would like to offer Defense Exhibit No. 34 in evidence, it being a sketch which represents the working areas of the loading and unloading details as testified to by this witness.

PRESIDENT: Any objection on the part of the prosecution?

PROSECUTION: No objections.

PRESIDENT: Subject to objections on the part of any members of the court, the court will receive Defense Exhibit No. 34 in evidence and give it such weight as the court sees fit.

(Whereupon the document heretofore marked Defense Exhibit No. 34 for identification was received in evidence as Defense Exhibit No. 34, is attached hereto, and made a part of the record.)

PRESIDENT: The court will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon the court adjourned at 1530 hours until 0900 hours 29 October 1946.)

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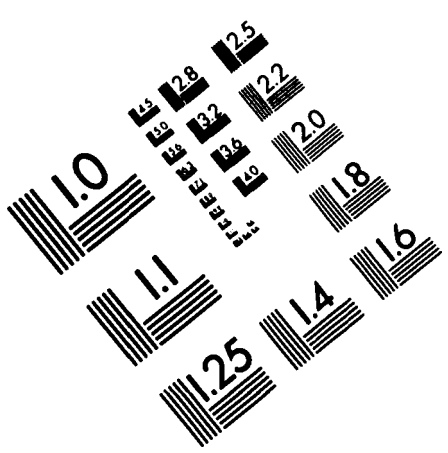

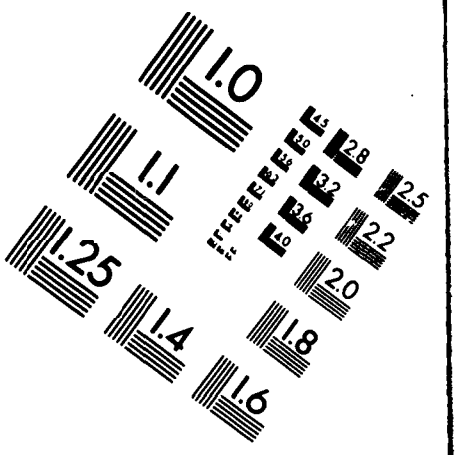

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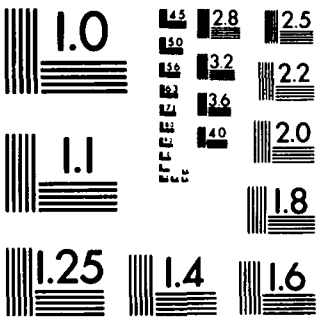

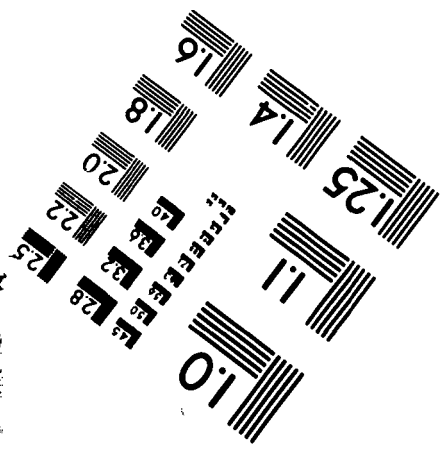

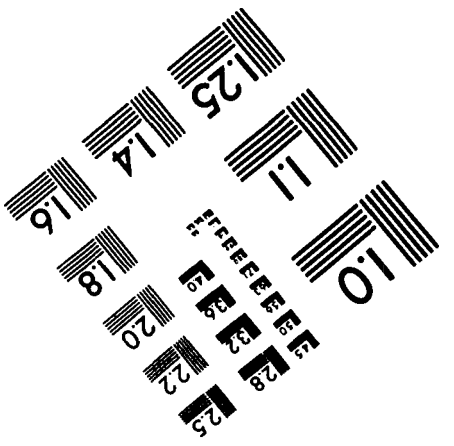

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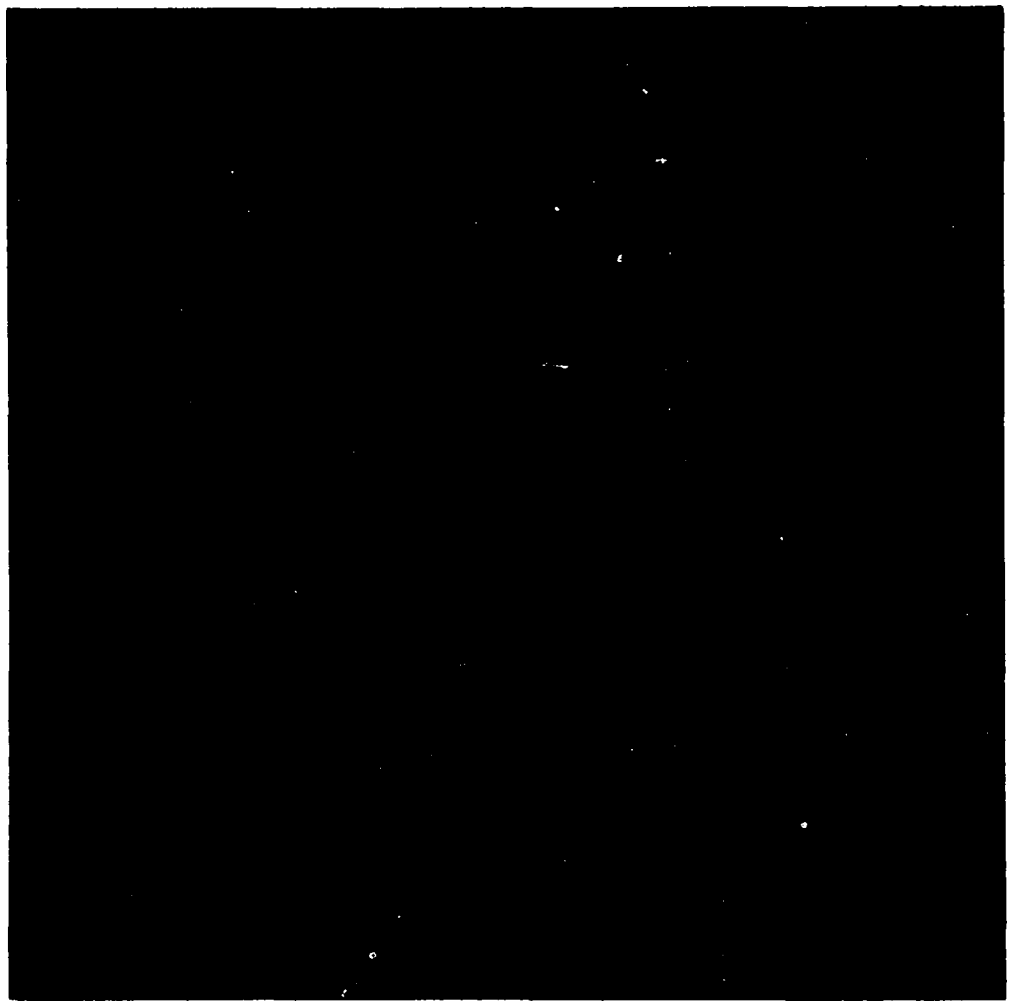

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